

**Virginia Soil and Water Conservation Board
Friday, February 1, 2008 – 9:30 a.m.
Association of Electric Cooperatives
4201 Dominion Boulevard
Glen Allen, Virginia**

Soil and Water Conservation Board Members Present

Granville M. Maitland, Vice Chair
Michael Altizer
Susan Taylor Hansen
Jean R. Packard
Jack A. Bricker, NCRS, Ex Officio

Joseph H. Maroon, Director, DCR
Darlene Dalbec
Richard E. McNear
Ray L. Simms

Members Not Present

Linda S. Campbell, Chair

Michael Russell

DCR Staff Present

Russell W. Baxter
William G. Browning
Nissa Dean
Michael R. Fletcher
Lee Hill
Mark B. Meador
Joshua M. Molnar
Elizabeth Andrews, Office of the Attorney General

Ryan J. Brown
Anne Crosier
David C. Dowling
J. Michael Foreman
Noah Hill
Jim Robinson

Others Present

John S. Bailey, Lake of the Woods Association
Debra Byrd, Goochland County
Darren Coffee, Louisa County
Charles deSeve, Lake Barcroft WID
Tyrone W. Franklin, Surry County
Don Gill, Lancaster County
Davis Grant, Lake Barcroft WID
George Hayfield, Middlesex County
Ralph Hollm
Fritz Knapp, Virginia Association of Soil and Water Conservation Districts
Doug Moseley, GKY and Associates, Inc.
Chris Nelson Louisa County
Chris Pomeroy, VSMA
Ricky Rash, Virginia Association of Soil and Water Conservation Districts
Tarron Richardson, City of Richmond

Eldon Rucker, Lake of the Woods Association
 Michael Schaeffer, VAMSA
 Marshall A. Sebra, Lancaster County
 Steve Smallwood, City of Fredericksburg
 Paul Snyder, Louisa County
 William H. Street, James River Association
 Gary Ziegler, Westmoreland County

Call to Order and Introductions

Mr. Maitland called the meeting to order. Ms. Campbell was unable to attend due to inclement weather. He asked members and guests to introduce themselves.

Approval of Minutes from November 15, 2007

MOTION: Ms. Hansen moved that the minutes of the November 15, 2007 meeting of the Virginia Soil and Water Conservation Board be approved as submitted.

SECOND: Ms. Packard

DISCUSSION: None

VOTE: Motion carried unanimously

Director's Report

Mr. Maroon gave the Director's report. He provided the following budget summary:

DCR Overview

	<u>Total</u>	<u>GF</u>	<u>NGF</u>	<u>FTE</u>
FY 08	\$77 M	\$50 M	\$27 M	536
FY09*	\$122 M	\$57 M	\$65 M	548
FY 10*	\$103 M	\$53 M	\$50 M	563

(* As proposed in Governor's Introduced Budget)

Soil and Water Conservation Districts

- Operating Support > \$1.3 M each year - Del. O'Bannon, Sen. Reynolds
- Dam Rehabilitation > \$700,000 each year - Del. Abbitt, Sen. Hanger
- Funding Cut Restored > \$386,500 each year - Del. Hogan, Sen. Lucas
- Mapping district dam inundation zones > \$1.5 M (FY 09) - Del. Phillips, Sen. Hanger

Dam Safety

- Governor's Budget: \$20 M bonds for repairs to district and DCR dams; \$2.7 M for loan program; 2 FTE dam engineers (no funds needed)
- Upgrade of T. Nelson Elliott Dam (Manassas) > \$4.75 M (FY 10) - Sen. Colgan
- Upgrade Bedford City Stoney Creek Reservoir Dam > \$5.0 M (FY 09) - Del. Putney

Soil and Water Conservation

- Governor's Budget: \$20 M Nonpoint WQIF (includes \$6 M new GF; \$5 M reserve; \$9 M point source interest earnings); 10 NGF - Stormwater staff
- VA. Natural Resource Funding (Ag BMPs) > brings total to \$100 M each year - Del. Del. Landes, Sen. Whipple

Natural Heritage

- Operational support Natural Area Preserve System > \$850,000, 6 FTE each year - Del. Morgan, Sen. Whipple
- Operational support for Crow's Nest (Stafford) > \$350,000, 2 FTE (FY 2009) - Sen. Stuart

State Parks Operating Support

- Governor's Budget: \$1.5 M/15 FTE (FY 10); Merger and transfer 2 FTE from Chippokes
- Adds \$1.5 M. 15 FTE each year (brings total in FY 2010 to \$ 3 M, 30 FTE) - Sen. Hanger
- Adds \$3 M/35 FTE (FY 09) and \$7 M/82 FTE (bringing additional annual support to \$10 M/117 FTE) - Del. Cox
- Undo Chippokes Plantation Farm Foundation merger > Del. Barlow, Sen. Quayle
- Virginia Explore operating support (Roanoke) \$270,150 (FY 09) - Del. Fralin
- High Bridge operating support > \$383,000/2 FTE (FY 09), \$450,000/4 FTE (FY 10) - Del. Abbitt
- Language requiring report on Grand Caverns by Sept. 1. > Del. Landes
- Non-profit contracts to generate revenue for State Parks > Del. Kilgore

State Parks Capital Budget

- Governor's Budget: \$3 M Powhatan State Park; High Bridge \$ 4.5 M
- Powhatan State Park > adds \$2,730,000 - Sen. Watkins (Also, \$ 5 M for related VDOT road improvements)
- Lake Anna picnic shelters > \$475,000 - Del. Orrock, Sen. Houck
- Shenandoah River State Park > \$2 M (cabins), \$ 2.5 M (campground loop), \$ 300,000 Visitor center displays - Del. Athey

Land Conservation

- Governor's Budget: \$50 M bonds for land acquisition; adds \$950,000 each year for Virginia Outdoors Foundation operational support; continued \$3 M in base budget for VLCF grants

- Adds \$25 M for purchasing parkland for source water protection in Bay watershed to Governor's bond package - Sen. Ticer
- Land Conservation > add DGIF to eligible agencies to use proceeds from Governor's bond package - Del. Abbitt, Sen. Deeds

Other Pass-Throughs

- Potomac Heritage National Scenic Trail > \$1 M each year - Del. Frederick
- Breaks Interstate Park operating support > \$100,000 Senator Puckett; \$86,250 each year - Del. Phillips
- Breaks Interstate Park electrical system > \$339, 250 - Del. Phillips
- Support for Rappahannock River Basin Commission > \$20,000 each year - Del. Lingamfelter, Sen. Houck

Mr. Maroon provided a report regarding current legislation before the General Assembly. A copy of that report is included as Attachment #1.

Mr. Maroon said that two companion bills were submitted and supported by a wide coalition. HB1335 and SB511 would allocate 10 percent of the revenue generated by a one percent sales and use tax that would be directed to fund agricultural practices.

Ms. Hansen asked about SB594 that would exempt dam owners of those not dangerous and historically significant dams from correcting their deficiencies.

Mr. Dowling noted that the Board was on record noting concern over that legislation and that would be included in agency talking points.

Mr. Maroon distributed a handout of agency highlights of 2007. A copy of this report is included as Attachment #2.

Mr. Maroon noted that Ms. Campbell had sent a letter to Delegate Beverly Sherwood in support of the Dam Break Inundation zone legislation. Members were provided a copy of the letter in their packets. A copy of this letter is available from DCR.

Stormwater Management Program Update

Mr. Hill gave the update for the Stormwater Management Program

Status of MS4 Individual Permits

Mr. Hill said that these permits are the ones for the six Southeast Virginia localities of Portsmouth, Virginia Beach, Chesapeake, Hampton, Newport News, Norfolk. When the permits are reviewed and approved by DCR staff they will be sent to EPA for review and comment. The target date is to get the permits approved by EPA and issued by July 1, 2008.

Status of MS4 General Permits

The general permit has been public noticed and the comment period has closed. Comments were received from the general public as well as EPA. There were 22 unique comments and more than 200 form letter comments. EPA had additional comments.

Mr. Brown and Mr. Fritz have been addressing the comments and will then review them with the Director. Then the permits will be sent back to EPA for additional comments.

Mr. Dowling said that the intent is to try to bring these regulations forward at the March Board meeting.

Status of VDOT Individual Permit

Mr. Hill said that VDOT is currently covered by 12 or 13 general permits for their district and regional offices and has requested to be covered by one individual permit. VDOT will have to bring the permit to the Board and then to EPA for comment. DCR is still in the negotiation stage with VDOT.

Mr. Maitland asked if this would be an all encompassing permit for VDOT.

Mr. Hill said that as much as possible, items would be addressed in the individual permit. There may be other items that need to be addressed separately.

Construction General Permits Issued

Mr. Hill said that 1,238 permits have been issued between July 1, 2007 and January 31, 2008. This number is down from last year by approximately 10%. Mr. Hill said that activity typically slows in the winter, but that the number could also be affected by the economy.

Status of Stormwater NOIRA

Mr. Dowling said that per the Board's instructions, staff had reissued the stormwater NOIRA. It has been approved by the administration and will be published on February 18 in the Virginia Register of Regulations. The intent is to bring the proposed regulations back to the Board in the summer.

Report on Final Consent Special Order for RJ Smith, Inc.

Ms. Crosier gave an overview of the final Consent Special Order issued to R.J. Smith, Inc. A copy of the order was mailed to members prior to the meeting and is available from DCR along with a copy of Ms. Crosier's Powerpoint presentation.

Mr. Maroon noted that this was the first consent order the Department has entered into for stormwater violations.

Ms. Crosier said that the Tappahannock Regional office put together the necessary information for this action. The action relates to the Tappahannock-Essex County Airport construction site and regards alleged violations of the Virginia Stormwater Management Act and Regulations.

Mr. McNear asked who was responsible for allowing this disturbance to get out of control.

Mr. Hill said that under the County's Erosion and Sediment Control program, Essex County is responsible. The Board has asked Essex County to appear before the Board. At the November 15 meeting DCR staff gave the response to the Corrective Action Agreement (CAA). Staff will now have to do another CAA review. On the initial program review, Essex County scored less than 100 out of a possible 400.

Erosion and Sediment Control Program

Follow up report on testing for Erosion and Sediment Certification

Mr. Hill gave an overview of the Erosion and Sediment Control Training and Certification Courses and Exams for calendar year 2007.

<u>Course</u>	<u>Number of Courses Offered</u>	<u>Attendees</u>
Basic	16	648
Inspector	16	501
Plan Reviewer	4	204
	36	1353

A copy of the summary, showing dates and locations where classes were held is available from DCR.

Linear Projects Annual Standards and Specifications

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board receive the staff update concerning the review of the 2008 annual standards and specifications for electric, natural gas, telecommunications and railroad companies and that the Board concur with staff recommendations for conditional approvals of the 2008 specifications for the utility companies listed below in accordance with the Erosion and Sediment Control Law and Regulations. Further, the Board requests the Director to have staff notify said companies of the status of the review and the conditional approval of the annual standards and specifications and the responses to the request for variances.

The four items for conditional approval are:

1. A revised list of all proposed projects planned for construction in 2008 must be submitted by February 29, 2008. The following information must be submitted for each project:

- Project name (or number)
 - Project location (including nearest major intersection)
 - On-site project manager name and contact information
 - Project description
 - Acreage of disturbed area for project
 - Project start and finish dates
2. Project information unknown prior to February 29, 2008 must be provided to DCR two (2) weeks in advance of land disturbing activities by e-mail at the following address LinearProjects@dcr.virginia.gov.
 3. Notify DCR of the Responsible Land Disturber (RLD) at least two (2) weeks in advance of land disturbing activities by e-mail at the following address LinearProjects@dcr.virginia.gov. The information to be provided is name, contact information and certification number.
 4. Install and maintain all erosion and sediment control practices in accordance with the 1992 Virginia Erosion and Sediment Control Handbook.

A variance was requested to Minimum Standard 16.a. The response to the request for the variance is as follows:

Minimum Standard 16.a: The project may have more than 500 linear feet of trench length opened at one time provided that all trenches in excess of 500 feet in length are adequately backfilled, seeded and mulched at the end of each work day and adjacent property and the environment are protected from erosion and sediment damage associated with the regulated land disturbing activity.

A variance was requested to 4VAC50-30-30.B that states submission of annual specifications to the Board does not eliminate the need for a project specific erosion and sediment control plan. The request is to not develop a project specific erosion and sediment control plan prior to land disturbance. The response to the request for variance is as follows:

The requested variance to not develop a project specific erosion and sediment control plan prior to the beginning of land disturbance is not approved. The project specific erosion and sediment control plan must be developed in accordance with the approved standards and specifications.

A variance was requested to 4VAC50-60-1170.II.B.2 which requires that a copy of the Stormwater Pollution Prevention Plan (SWPPP), which would

include the erosion and sediment control plan, be retained at a central location on the construction site. The variance request is to make the SWPPP and the erosion and sediment control plan available within 48 hours upon a request by the permitting authority. The response to the request for variance is as follows:

The requested variance to 4VAC50-60-1170.II.B.2 is not approved. The SWPPP and project specific erosion and sediment control plan must be available to the permitting authority at the time of an on-site inspection.

Companies recommended for conditional approval with the 4 conditions are:

Electric: Dominion Virginia Power Electric Transmission, Virginia Association of Electric Cooperatives

Gas: Colonial Pipeline, Dominion Gas Transmission/Dominion Resources, ETNG/Spectra Energy, Holcomb Rock Company

Company recommended for conditional approval with the 4 conditions and the responses to the variance requests for Minimum Standard 16.a, for 4VAC50.30.30.B and for 4VAC50-60-1170.II.B.2

Electric: American Electric Power

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried

Approval of Alternative Inspection Program for Franklin, Mecklenburg and Nelson Counties

MOTION: Mr. Altizer moved approval of the following recommended motions:

The Virginia Soil and Water Conservation Board approves the proposed Alternative Inspection Program for the County of Franklin as being consistent with the requirements of the Erosion and Sediment Control Law and Regulations. The Board requests the DCR staff to monitor the implementation of the alternative inspection program by the County to ensure compliance.

The Virginia Soil and Water Conservation Board approves the proposed Alternative Inspection Program for Mecklenburg County as being

consistent with the requirements of the Erosion and Sediment Control Law and Regulations. The Board requests the DCR staff to monitor the implementation of the alternative inspection program by the County to ensure compliance.

The Virginia Soil and Water Conservation Board approves the proposed Alternative Inspection Program for Nelson County as being consistent with the requirements of the Erosion and Sediment Control Law and Regulations. The Board requests the DCR staff to monitor the implementation of the alternative inspection program by the County to ensure compliance.

SECOND: Mr. Simms

DISCUSSION: None

VOTE: Motion carried unanimously

Initial acceptance of Alternative Inspection Program for Alleghany, Carroll, Greene, Lunenburg and Northampton Counties and Nottoway County

Mr. Hill noted that Nottoway County was added to the agenda and recommendation for acceptance.

MOTION: Ms. Hansen moved approval of the following recommended motions:

The Virginia Soil and Water Conservation Board receives the staff update and recommendation regarding the proposed Alternative Inspection Program for Alleghany County. The Board concurs with the staff recommendation and accepts Alleghany County's proposed Alternative Inspection Program for review and future action at the next Board meeting.

The Virginia Soil and Water Conservation Board receives the staff update and recommendations regarding the proposed Alternative Inspection Program for Carroll County. The Board concurs with the staff recommendation and accepts Carroll County's proposed Alternative Inspection Program for review and future action at the next Board meeting.

The Virginia Soil and Water Conservation Board receives the staff update and recommendation regarding the proposed Alternative Inspection Program for Greene County. The Board concurs with the staff recommendation and accepts Greene County's proposed Alternative Inspection Program for review and future action at the next Board meeting.

The Virginia Soil and Water Conservation Board receives the staff update and recommendation regarding the proposed Alternative Inspection Program for Lunenburg County. The Board concurs with the staff recommendation and accepts Lunenburg County's proposed Alternative Inspection Program for review and future action at the next Board meeting.

The Virginia Soil and Water Conservation Board receives the staff update and recommendation regarding the proposed Alternative Inspection Program for Northampton County. The Board concurs with the staff recommendation and accepts Northampton County's proposed Alternative Inspection Program for review and future action at the next Board meeting.

The Virginia Soil and Water Conservation Board receives the staff update and recommendation regarding the proposed Alternative Inspection Program for Nottoway County. The Board concurs with the staff recommendation and accepts the County of Nottoway's proposed Alternative Inspection Program for review and future action at the next Board meeting.

SECOND: Ms. Packard

DISCUSSION: None

VOTE: Motion carried unanimously

Local Programs recently reviewed and recommended to be found consistent

Mr. Hill reviewed local programs recently reviewed and recommended to be found consistent. This is Step #7 in the CAA flow chart. For these localities staff has reviewed the CAA or the locality has completed the CAA to become consistent with Erosion and Sediment Control law.

MOTION: Ms. Packard moved approval of the following recommended motions:

The Virginia Soil and Water Conservation Board commends the City of Staunton for successfully improving the City's Erosion and Sediment Control Program to become fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

The Virginia Soil and Water Conservation Board commends Bath County for successfully improving the County's Erosion and Sediment Control Program to become fully consistent with the requirements of the Virginia

Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

The Virginia Soil and Water Conservation Board commends Dickenson County for successfully improving the County's Erosion and Sediment Control Program to become fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

The Virginia Soil and Water Conservation Board commends Goochland County for successfully improving the County's Erosion and Sediment Control Program to become fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

The Virginia Soil and Water Conservation Board commends Northampton County for successfully improving the County's Erosion and Sediment Control Program to become fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

The Virginia Soil and Water Conservation Board commends Smyth County for successfully improving the County's Erosion and Sediment Control Program to become fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

The Virginia Soil and Water Conservation Board commends Southampton County for successfully improving the County's Erosion and Sediment Control Program to become fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

The Virginia Soil and Water Conservation Board commends the Town of Haymarket for successfully improving the Town's Erosion and Sediment Control Program to become fully consistent with the requirements of the Virginia Erosion and Sediment Control Law and Regulations, thereby providing better protection for Virginia's soil and water resources.

SECOND: Mr. Altizer

DISCUSSION: None

VOTE: Motion carried unanimously.

Mr. Hill said that, with this action, 89 of 165 local programs have been found consistent.

Mr. Maroon noted that not all 165 programs have been reviewed and that the percentage of programs reviewed that have been found consistent is significantly higher.

Mr. Frye said that the goal is to have 90% of the programs found consistent by July 1, 2010.

Recommendation to find programs inconsistent and approval of Corrective Action Agreements (CAAs)

Mr. Hill presented staff recommendations regarding the Counties of Augusta, Highland, Lancaster, Louisa, Middlesex, Surry, Westmoreland and the Town of Warrenton. He said that staff had completed local program review for administration, plan review, inspection and enforcement. Mr. Hill said it was the recommendation of staff that the Board find these localities inconsistent and approve the CAAs to make them provisionally consistent. A copy of all CAAs are available from the Department.

Mr. Hill presented a letter from Highland County that was received via email on January 31, 2008. A copy of that letter is available from DCR.

Ms. Hansen expressed a concern that the intent of the letter was to prepare the Board for failure of the County's program.

MOTION: Ms. Packard moved approval of the following recommended motions:

The Department of Conservation and Recreation (DCR) staff reviewed Augusta County's Erosion and Sediment Control Program. Based on the review, staff recommends that the County's Erosion and Sediment Control Program be found inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County. The Virginia Soil and Water Conservation Board accepts staff recommendations and finds the County's Erosion and Sediment Control Program inconsistent and approves the County's CAA. The Board directs DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

The Department of Conservation and Recreation (DCR) staff reviewed Highland County's Erosion and Sediment Control Program. Based on the review, staff recommends that the County's Erosion and Sediment Control Program be found inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County. The Virginia Soil and Water Conservation Board accepts staff recommendations and finds the County's Erosion and Sediment Control Program inconsistent and approves the County's CAA. The Board directs DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

The Department of Conservation and Recreation (DCR) staff reviewed Lancaster County's Erosion and Sediment Control Program. Based on the review, staff recommends that the County's Erosion and Sediment Control Program be found inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County. The Virginia Soil and Water Conservation Board accepts staff recommendations and finds the County's Erosion and Sediment Control Program inconsistent and approves the County's CAA. The Board directs DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

The Department of Conservation and Recreation (DCR) staff reviewed Louisa County's Erosion and Sediment Control Program. Based on the review, staff recommends that the County's Erosion and Sediment Control Program be found inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County. The Virginia Soil and Water Conservation Board accepts staff recommendations and finds the County's Erosion and Sediment Control Program inconsistent and approves the County's CAA. The Board directs DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

The Department of Conservation and Recreation (DCR) staff reviewed Middlesex County's Erosion and Sediment Control Program. Based on the review, staff recommends that the County's Erosion and Sediment Control Program be found inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County. The Virginia Soil and Water Conservation Board accepts staff recommendations and finds the County's Erosion and Sediment Control Program inconsistent and approves the County's CAA. The Board directs DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

The Department of Conservation and Recreation (DCR) staff reviewed Surry County's Erosion and Sediment Control Program. Based on the review, staff recommends that the County's Erosion and Sediment Control Program be found inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County. The Virginia Soil and Water Conservation Board accepts staff recommendations and finds the County's Erosion and Sediment Control Program inconsistent and approves the County's CAA. The Board directs DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

The Department of Conservation and Recreation (DCR) staff reviewed Westmoreland County's Erosion and Sediment Control Program. Based on the review, staff recommends that the County's Erosion and Sediment Control Program be found inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the County. The Virginia Soil and Water Conservation Board accepts staff recommendations and finds the County's Erosion and Sediment Control Program inconsistent and approves the County's CAA. The Board directs DCR staff to monitor the implementation of the CAA by the County to ensure compliance.

The Department of Conservation and Recreation (DCR) staff reviewed the Town of Warrenton's Erosion and Sediment Control Program. Based on the review, staff recommends that the Town's Erosion and Sediment Control Program be found inconsistent with the Virginia Erosion and Sediment Control Law and Regulations and approve the draft CAA for the Town. The Virginia Soil and Water Conservation Board accepts staff recommendations and finds the Town's Erosion and Sediment Control Program inconsistent and approves the Town's CAA. The Board directs DCR staff to monitor the implementation of the CAA by the Town.

SECOND: Mr. Altizer

DISCUSSION: Mr. Maitland offered localities present to address concerns.

Darren Coffee, Louisa County

Mr. Coffee thanked the Board for the opportunity to speak and addressed Louisa County building official Paul Snyder. He said that staff from Louisa had just completed the classes but that classes were not the issue. He said the scheduling of the exams is problematic. Mr. Coffee said that he was also accompanied by Alyson Sappington of the Thomas Jefferson Soil and Water Conservation District and Chris Nelson

Mr. Coffee said that Louisa County had taken measures to address the corrective actions and that the County takes the program very seriously. The County intends to keep working with DCR staff.

Mr. Coffee said that the County has concerns regarding the evaluation tool. He said the intent of the program is work with localities but that the evaluation tool did not accomplish that as it is overly severe.

Mr. Coffee said that in 2001 DCR performed an evaluation and the County received a failing mark with six inspectors, two of whom exclusively handle Erosion and Sediment control issues. Every one in Louisa County who has taken the exam has passed.

Mr. Coffee said that the County is aware that the ordinance needs to be updated. The County has submitted a model ordinance to DCR staff.

Alyson Sappington, Thomas Jefferson Soil and Water Conservation District

Ms. Sappington said that she was surprised at the review. She said that every locality should be provided with the checklist that DCR staff are using for the review. She said a better spirit of cooperation should be established.

Gary Ziegler, Westmoreland County

Mr. Ziegler said that the form objectives do not provide credit for work that has been done. He said that the report does not reflect the County's progress for the last 2 1/2 years.

Mr. Ziegler asked why there had been 10 years between reviews.

He said that it would have been helpful if training had been provided to the localities. He noted that Westmoreland County has complied with over two-thirds of the requirements in the agreement.

Rhonda Mack, Surry County

Ms. Rhonda Mack introduced County Administrator Tyrone Franklin and Angela Blount, also from Surry County. He said that with the exception of two items on the CAA, Surry County is now in compliance. He said that staff are provisionally certified.

Ms. Blount said that the County ordinances were last updated in 1975. He said that the ordinance does not stipulate the need for a certified plan administrator. He said that it was the County's position that not enough points were awarded for having a provisionally certified plan reviewer.

Don Gill, Lancaster County

Mr. Gill introduced Marshal Sebra also from Lancaster County. He said that Lancaster County has some of the same concerns as Louisa County. He noted that Lancaster did receive a passing grade in the enforcement category.

He said that under the administration category there was one instance where the County was not in compliance. He said that the County would like to have a list from the regional office as to why this was flagged. He noted that on some plans it was noted that there was no narrative. However, he said that there was substantial narrative within the report, just not under the title "narrative."

He said that the County intends to meet the time frame of the CAA.

Dan Foster, Highland County

Mr. Foster said that he is a District Director for the Mountain Soil and Water Conservation District. He gave an example of a construction project that did not appear to follow the Erosion and Sediment Control laws. He said that the State Corporation Commission granted the permit with the understanding that the laws would be followed.

Mr. Foster said that Highland County has not followed the plan.

Mr. Maroon asked if the County had attempted to get the District involved.

Mr. Foster said they had not.

Mr. Maroon said that the Erosion and Sediment Control program is a locally administered program. He said the intent is to work with localities and to keep the Board informed.

Mr. Hill said that the program is moving forward under the new process. He said that as the process moves DCR does try to provide credit to the localities.

Ms. Hansen expressed concern that it appeared that the counties with the fewest resources have the greatest potential for environmental change.

Mr. Hill said that DCR has the ability to address these projects through the general permit. When DCR is made aware of the project, staff can follow up.

Ms. Packard said that she understood and appreciated the localities issues. She said that the process was moving forward and that the Board appreciated what localities were doing.

VOTE: Motion carried unanimously

Follow up on November Board action related to CAA compliance for Sussex and Nottoway Counties

Mr. Hill said that the recommendation for Nottoway and Sussex County that the respective programs be found inconsistent. A copy of all CAAs are available from the Department.

Jacqueline Brown, Sussex County Deputy County Administrator

Ms. Jacqueline Brown said that she was in attendance with County Administrator Mary Jones. She noted that the County received the comments from DCR On January 17 the Board of Supervisors voted to give full support and gave appropriate directives to County staff.

Ms. Brown distributed copies of a Corrective Action Plan for the County. A copy of this plan is available from DCR.

The County has extended an offer of employment to a building official who is certified. That building inspector and the planning director are enrolled in classes scheduled for March 4-5 in Williamsburg.

Mr. Maroon said that this was exactly the type of response hoped for. He expressed appreciation to Ms Brown and Ms. Jones for attending the meeting.

Mr. Maitland expressed appreciation of the work done by DCR staff member Noah Hill.

Regarding Nottoway County, Mr. Rash said that the Piedmont Soil and Water Conservation District now had certified Erosion and Sediment Control personnel to assist Nottoway County. However the County has not yet requested assistance.

MOTION: Ms. Packard moved approval of the following recommended motions:

The Board accepts the staff recommendations and finds Nottoway County's Erosion and Sediment Control Program to be inconsistent with the Erosion and Sediment Control Law and Regulations. In addition, the Board hereby grants the County an extension until May 15, 2008 to fully comply with the outstanding CAA. The Board further requests that the Director of DCR and his staff evaluate the County's compliance with the outstanding CAA and provide a report at the July Board meeting. At that time, the Board shall determine if Nottoway County has demonstrated substantial and consistent progress towards implementing the outstanding CAA and will review, if necessary, the appropriate enforcement actions that the Board may wish to take pursuant to Section 10.1-562.E of the Erosion and Sediment Control Law.

The Board accepts the staff recommendations and finds Sussex County's Erosion and Sediment Control Program to be inconsistent with the Erosion and Sediment Control Law and Regulations. In addition, the Board hereby grants the County an extension until May 15, 2008 to fully comply with the outstanding CAA. The Board further requests that the Director of DCR and his staff evaluate the County's compliance with the outstanding CAA and provide a report at the July Board meeting. At that time, the Board shall determine if Sussex County has demonstrated substantial and consistent progress towards implementing the outstanding CAA and will review, if necessary, the appropriate enforcement actions that the Board may wish to take pursuant to Section 10.1-562.E of the Erosion and Sediment Control Law.

SECOND: Mr. Altizer

DISCUSSION: None

VOTE: Motion carried unanimously

Follow up on Board Action requesting Local Program response to CAA compliance for Charlotte and Lunenburg Counties

A copy of all CAAs are available from the Department.

MOTION: Mr. Altizer moved approval of the following recommended motions:

The Department of Conservation and Recreation (DCR) staff received Charlotte County's status report for the Corrective Action Agreement (CAA). Based on the County's response and DCR staff review of the response and CAA, the staff recommends the CAA for Charlotte County be extended to July 17, 2008. The Virginia Soil and Water Conservation Board accepts this recommendation and approves the CAA extension until July 17, 2008. The Board requests the DCR staff to monitor the County's compliance with implementing the extended CAA.

The Department of Conservation and Recreation (DCR) staff received Lunenburg County's status report for the Corrective Action Agreement (CAA). Based on the County's response and DCR staff review of the response and CAA, the staff recommends the CAA for Lunenburg County be extended to July 17, 2008. The Virginia Soil and Water Conservation Board accepts this recommendation and approves the CAA extension until July 17, 2008. The Board requests the DCR staff to monitor the County's compliance with implementing the extended CAA.

SECOND: Mr. Simms

DISCUSSION: None

VOTE: Motion carried unanimously

Progress of Local Programs on Corrective Action Agreements (CAAs)

Mr. Hill said that for the City of Fredericksburg, Nelson County, and the Town of Berryville, the Board had reviewed and approved an Alternative Inspection Program (AIP). He said there had been some progress regarding each of the respective CAAs. A copy of all CAAs are available from the Department.

Mark Bowles, Nelson County

Mr. Bowles thanked DCR and the Board for their patience and said that staff had been good to work with.

Steve Small, Fredericksburg

Mr. Small noted that the plan review portion of the Fredericksburg program did pass. He said that the City needed to work on the administrative and inspection sections. He said that the City takes the program seriously and is working to make the necessary changes.

MOTION: Mr. Simms moved approval of the following recommended motions:

The Virginia Soil and Water Conservation Board (Board) accepts the staff recommendation and hereby grants the City of Fredericksburg an extension until July 17, 2008 to become fully compliant with the outstanding CAA. The Board further requests that the Director of DCR and his staff evaluate the City's compliance with the outstanding CAA and provide a report at the September Board meeting.

The Virginia Soil and Water Conservation Board (Board) accepts the staff recommendation and hereby grants Nelson County an extension until July 17, 2008 to become fully compliant with the outstanding CAA. The Board further requests that the Director of DCR and his staff evaluate the County's compliance with the outstanding CAA and provide a report at the September Board meeting.

The Virginia Soil and Water Conservation Board (Board) accepts the staff recommendation and hereby grants the Town of Berryville an extension until July 17, 2008 to become fully compliant with the outstanding CAA. The Board further requests that the Director of DCR and his staff evaluate the Town's compliance with the outstanding CAA and provide a report at the September Board meeting.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

Board Action related to Mecklenburg County accepting program responsibility for Town of Chase City

MOTION: Ms. Packard moved that the Virginia Soil and Water Conservation Board accept the staff recommendation and hereby approve the transfer of the responsibility for the administration and enforcement of the erosion and sediment control program for the Town of Chase City to Mecklenburg County.

SECOND: Ms. Dalbec

DISCUSSION: None

VOTE: Motion carried unanimously.

Modifications to FY08 Erosion and Sediment Control Local Program Review List (add the Town of Rocky Mount, remove the Town of Chase City)

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board receive the staff update regarding the review of local erosion and sediment control programs and that the Board concurs with the staff recommendations on the revised local programs to review for FY08 and approve the revised list of localities for completion of up to 38 reviews for FY08. The following is the revised list:

Local Program	Type	Watershed Office
Allegheny (if possible)	County	Staunton
Appomattox	Town	Richmond
Augusta	County	Staunton
Bedford	County	Clarksville
Carroll	County	Dublin
Chesterfield	County	Richmond
Clarke	County	Staunton
Colonial Heights (if possible)	City	Richmond
Dickenson	County	Abingdon
Dinwiddie	County	Suffolk
Dumfries	Town	Potomac
Fairfax	County	Potomac
Franklin (if possible)	City	Suffolk
Grayson	County	Dublin
Greensville	County	Suffolk
Henrico	County	Richmond
Herndon	Town	Potomac
Highland	County	Staunton
Hopewell (if possible)	City	Richmond
Isle of Wight	County	Suffolk
Lancaster	County	Tappahannock
Louisa	County	Richmond
Mathews	County	Tappahannock
Montgomery	County	Dublin
Northumberland	County	Tappahannock
Patrick	County	Dublin
Pittsylvania	County	Clarksville

Poquoson	City	Tappahannock
Rocky Mount	Town	Clarksville
Russell	County	Abingdon
Salem	City	Clarksville
Surry	County	Suffolk
Tazewell	County	Abingdon
Warren	County	Staunton
Warrenton	Town	Potomac
Washington	County	Abingdon
West Point	Town	Tappahannock
Williamsburg	City	Tappahannock

SECOND: Ms. Packard

DISCUSSION: None

VOTE: Motion carried unanimously

Impounding Structure (Dam Safety) Final Regulations

Presentation of recommended final regulations to Board

Mr. Dowling gave a presentation of the recommended final Impounding Structure (Dam Safety) Regulations (§ 4VAC 50-20).

Overview

Mr. Chairman, members of the Board;

The final regulations before the Board today for discussion and action represent over 2 ½ years of work by the Board and the Department and involved significant input from stakeholders. They represent the work of a 28-member technical advisory committee between May and October of 2006 and reflect the Department's response to comments received during the 60-day comment period held between August 20, 2007 and October 19, 2007, which included 5 public hearings.

As you are aware, no regulatory changes have been made to the Virginia Impounding Structure Regulations since 1989 except to update the definition of regulated dams to match the 2001 legislation. The regulations deserved a thorough review.

The Board authorized the DCR in July of 2005 to submit a NOIRA to consider changes and solicit recommendations related to the Board's Virginia Impounding Structure Regulations. The changes were permitted to include, but not be limited to amendments:

- to address the Ad Hoc Dam Safety Committee's recommendations relative to Classes of Impounding Structures (§ 4 VAC50-20-40), Performance Standards Required for Impounding Structures (§ 4 VAC50-20-50), and the attendant Table 1 established in the 2004 Virginia Impounding Structures Regulations;
- to clarify vague words/wording (e.g. possible, probable, reasonable, appropriate, etc.);
- to make Table 1 more understandable and consistent in application;
- to eliminate the references to "new" and "existing" dams;
- to establish alteration permit requirements similar to construction permit requirements;
- to remove DCR forms currently contained in the regulations; and
- to make other technical or administrative amendments necessary to improve and clarify the regulations.

TAC Meetings

Seven full meetings of the TAC were held and 3 subcommittee meetings during this period.

The TAC was facilitated by Barbara Hulburt of McCammon Group.

- The 1st meeting of the TAC: May 1, 2006 at VCU.
 - Committee charge;
 - Background presentations on the Ad Hoc and Board workgroup study activities;
 - Discussion of the NOIRA and regulatory process;
 - Overview of the dam safety program;
 - Review of key Code and regulatory authorities.
- Emergency Action Plan subcommittee (conference call): June 6 2006.
- The 2nd meeting of the TAC: June 13, 2006 at Department of Forestry.
 - Discussion of Emergency Action Plan draft language;
 - Review of Virginia's dam classification criteria and related definitions;
 - Overview of Federal Technical Guidance for Dam Safety Programs;
 - Review of Other States' Approaches to Dam Classifications.
- Table 1 subcommittee meeting: June 29 2006 at Schnabel Engineering.
- Incorporation of 2006 Enforcement legislation concepts into the draft language.
- The 3rd meeting of the TAC: July 13, 2006, at North Anna Nuclear Information Center
 - How Virginia Regulations Affect the Values of One PMF – Peter Rainey;
 - Got rain? – Dave Campbell;
 - Virginia Dams: A status report – Lisa Cahill;
 - Discussion of Table 1 Subcommittee draft language.

- The 4th meeting of the TAC: Thursday, July 27
 - Revisit Table 1 revised draft language
 - Revisit revised EAP language
 - Preliminary Discussion of Alternative Procedures (decision matrix) for SDF Reductions
- Alternative Procedures subcommittee meeting: August 28, 2006.
- The 5th meeting of the TAC: September 6, 2006 at Department of Forestry.
 - Refinement of Table 1
 - Discussion of Delayed effective date language
 - Review of Incremental Analysis language
 - Review of Dam Break Inundation Zone Mapping language
 - Discussion of Alternative Procedures (decision matrix) for SDF reductions (Subcommittee report)
 - Discussion of Dam Break Inundation Zone Draft Legislation
 - Discussion of Emergency Repair Notification language
 - Emergency Preparedness for low hazard dams language
 - Construction Permit language
 - Alteration Permit language.
- The 6th meeting of the TAC: Wednesday, October 11, 2006 at John Tyler in Chester.
 - Review of regulation refinements including Table 1 modifications
 - Fees discussion
 - Forms discussion
 - Decommissioning procedures
- The 7th meeting of the TAC: Tuesday, October 31, 2006 at VCU.
 - Review of the entire proposed regulation with the TAC focusing specifically on items changed since the last meeting and an explanation of how we addressed member e-mail suggestions.
 - Tested for consensus with the draft proposed regulations.
- The Board approved the proposed regulations at the November 15, 2006 Board meeting and authorized their filing.
- The Department submitted the regulations for administrative review on March 21, 2007.
- Department staff met with DPB to discuss the regulations and our analysis on April 5, 2007.

- The Department of Planning and Budget completed their Economic Impact Analysis on May 4, 2007. In general the analysis fairly represented the proposed regulations.
- DCR completed our response to DPB's analysis and posted it on May 21, 2007.
- A meeting with the Secretary of Natural Resources was held on June 6, 2007.
- The Secretary of Natural Resources completed his review on July 3, 2007.
- The Governor's Policy Office completed their review on July 23, 2007.
- The regulations were submitted to the Virginia Register for publication on August 1, 2007 and were published on August 20, 2007 (Vol. 23, Issue 25).
- A 60-day public comment period on the proposed regulations was held from August 20, 2007 through October 19, 2007 and five public hearings were held during the comment period.

Public Hearings

The five public hearings were held across the state on the following dates and at the following locations:

Date	Location	# Spoke	# Present (minus staff)
October 4, 2007	Roanoke, Virginia	3	18
October 9, 2007	Hampton, Virginia	3	7
October 10, 2007	Richmond, Virginia	1	12
October 11, 2007	Verona, Virginia	5	6
October 16, 2007	Manassas, Virginia	6	16

In total, 59 people (minus staff) attended the public hearings and 18 comments were received. One individual spoke at 3 hearings [thus 16 individuals commented].

Summary of Public Comments Received

During the 60-day public comment period, 40 written comments were received through emails, letters, faxes, or through the Virginia Town Hall. When the input received from the written comments and those from the five hearings are combined, the Department heard from 49 different individuals during the process. The comments received represented a diverse group of stakeholders.

The comments received can generally be broken into two groups.

Mr. Dowling noted that Board members received a more detailed summary of the comments. That summary is available from DCR.

The first are those that were primarily technical in nature. Examples of these would be that:

- 1) The regulations should include definitions for terms such as “probable loss of life”, “may cause loss of life”, “no expected loss of life”, “planned land-use”, “major roadways”, and “secondary roadways”
- 2) As the terms “dam” and “impounding structure” are utilized throughout the regulations clarify that they mean the same thing
- 3) Specify that EAP exercises for multiple dams may be held in combination when the same parties are involved
- 4) Change the required frequency for table top exercises from once every 3 years to once every permit cycle (six years)
- 5) Clarify language to allow emergency notifications to use systems such as reverse 911
- 6) Clarify that routine maintenance does not require an alteration permit

These and many of the other technical comments received were addressed.

The second group of comments were those that expressed general concerns such as:

- 1) Designing to the PMF was an “extreme and improbable” standard
- 2) Older dams should be grandfathered or treated differently (new versus existing)
- 3) The fiscal analysis under represented the true costs of the regulatory changes
- 4) The regulations need to embody a risk analysis process by which economic impacts of repairs may be weighed against the potential loss of life and property (the public safety that will be achieved via the repairs required)
- 5) State funding for dam repairs is necessary to accompany the regulations
- 6) Responsibility for dam repairs should also be placed on those that choose to build or reside in inundation zones
- 7) Class IV dams should not be held to the same standards as others (SDF, fees, EAP requirements, etc.)
- 8) Hazard classification should be based on threat to life and property and should not be based on the size of the dam
- 9) Fees were too high

As to the general concerns raised, and as will be reflected in the regulations before you, the Department suggests that:

- 1) The use of the PMF for high hazard dams is a reasonable standard to protect public safety as PMF storms have and are likely to occur in Virginia
- 2) All dams should be treated the same under the regulations regardless of age (whether they are new or existing)
- 3) Our fiscal analysis was based on reasonable and verifiable cost estimates and calculation procedures as was substantiated by the Department of Planning and Budget
- 4) It is our understanding that the Board’s position has been “One life” is the risk potential standard by which public safety should be measured throughout the regulations

- 5) The Commonwealth is making efforts to capitalize its Dam Safety, Flood Protection and Prevention Assistance Fund and is closing its first loans application request today. The Governor has included \$1.35 million per year of the biennium in the budget for additional deposits to the Fund.
- 6) Although we can not control in the regulations development within the dam break inundation zones, we do have legislation introduced this Session (HB837) that is being carried by Delegate Sherwood that does address these issues.

The Department did recognize that:

- 1) Class IV dams could be handled as a special subset of the low hazard category. Within the Low hazard category, certain dams that are determined that upon a failure would cause no expected loss of human life and no economic damage to any property except property owned by the impounding structure owner will have reduced requirements per a new Section 51
- 2) Hazard classification should be based on threat to life and property and should not be based on the size of the dam. As such, the size categories within the hazard potential classes were removed
- 3) Applications fees should be modified and have reduced the total costs by approximately 60%.

These fundamentals will be discussed more specifically as I review the regulatory changes in a moment.

Summary of what the regulations do overall

As was the case for the proposed regulations we brought to you, this regulatory action still contains 11 key changes to protect the safety and welfare of the public and their property from the impact of dam failures. The key elements of this proposed regulation will:

- 1) Revise the dam hazard potential classification system [Change the dam classification system from four categories (Class I, II, III, and IV) to three hazard classifications (High, Significant, and Low)];
- 2) Specify that spillway design requirements are applicable to all state regulated dams [Table 1 of the regulations will now apply to all dams regardless of the date they were built];
- 3) Modify the spillway design requirements to enhance public safety and reduce subjectivity;
- 4) Allow for the potential reduction of the spillway design flood requirements through incremental damage assessments for all qualifying dams;
- 5) Establish dam break inundation zone mapping requirements in order to identify areas that will be subject to flooding during a dam failure;
- 6) Expand emergency action plan requirements for High and Significant Hazard Potential dams and emergency preparedness plan requirements for Low Hazard Potential dams in order to enhance public safety and public awareness;
- 7) Establish permit application fees for the administration of the Dam Safety Program;

- 8) Remove the forms that are incorporated by reference and move reporting standards into the regulations;
- 9) Create new definitions or modify current definitions;
- 10) Reorganize, clarify, and expand sections related to permitting procedures; and
- 11) Update sections related to inspections, enforcement, and unsafe conditions.

We have, however, made several significant refinements within these key areas.

Mr. Dowling said there were a few housekeeping items before covering the key changes.

1. The draft before you today reflects two changes from the regulations mailed to you.

Mr. Dowling noted two changes:

Page 8, Line 323 the words “average flood plain flow velocity” was edited to read “flow velocity.”

Page 22, Line 1029 the term “downstream floodplain” was edited to read “downstream dam break inundation zone” and the term “hazard classification” was reinserted.

2. The Attorney General’s Office has substantiated the Board’s authority to propose these amendments. However, they did have several recommended edits as follows:

- Page 4; lines 186-187; after “classification”; strike “and size category for the given hazard classification.”
- Page 7; line 288; after “Any” insert “owner of an”
- Page 8; line 316; after “allowable”; strike “reduction” and insert “reduced level”
- Page 10; line 425; after “design report”; strike “will be” and insert “is.” This change will also be made in all similar instances
- Page 13; lines 579-580; capitalize Temporary Emergency Action Plan
- Page 14; lines 640-641 and 644-645; replication of statement “and confirmation as to whether the impounding structures has ever been overtopped; On line 640; after “(hours)”; insert “and”; then strike on line 640 and 641 “and confirmation as to whether the impounding structure has ever been overtopped;”
- Page 18 and 19; lines 800-857; correct numbering and references.

Key provisions of the final regulations including changes between the proposed regulations and the recommended final regulations [Shaded text represents changes]

Key provisions of this regulatory action include the following:

- 1) A revision of the dam classification system from four categories (Class I, II, III, and IV) to three hazard classifications (High, Significant, and Low). **[4VAC50-20-40]**
 - This will conform the classification categories to those used by federal agencies and many states. Class III and Class IV dams are grouped together into the Low category.

- Definitions were added for “Probable loss of life”, “May cause loss of life”, “No expected loss of life”, “Major roadways”, and “secondary roadways” in an effort to provide greater clarity to the distinctions between hazard potential classifications.

2) A new section entitled “Special criteria for certain low hazard impounding structures” was added that specifies that should the failure of a Low hazard potential impounding structure cause no expected loss of human life and no economic damage to any property except property owned by the impounding structure owner, then the owner may follow the following requirements [4VAC50-20-51]:

- No dam break inundation zone map required pursuant to section 4VAC50-20-54; (would be advisable should development occur downstream)
- The spillway design flood for the impounding structure is recommended as a minimum 50-year flood; however, no specific spillway design flood shall be mandatory;
- No emergency preparedness plan prepared pursuant to 4VAC50-20-177 shall be required;
- An owner still shall perform inspections of the impounding structure; and
- No certificate or permit fee established in this chapter shall be applicable to the impounding structure.
- Of the 30 formerly Class IV dams in the Low classification, approximately 9 dams requiring a potential upgrade under the proposed regulations will not now require an upgrade due to this provision, thus resulting in a reduction in the fiscal impact of about \$24 million.

3) A specification that the Spillway Design Flood requirements (Table 1) are applicable to all dams not just “new” (post July 1982) dams. In addition, Table 1 is revised to:

- Reflect the revised dam classifications.
- Update spillway design requirements to enhance public safety and to move towards federal standards.
- Eliminate spillway design flood ranges which may result in inconsistency in application.
- Require that the spillway of all High hazard dams be engineered to pass the full Probable Maximum Flood.
- Specify minimum thresholds for incremental damage assessment [4VAC50-20-50]. It was determined that for the purposes of public safety that all dams should be regulated in accordance with standardized spillway design requirements and evaluation procedures.
- Within the Significant and Low hazard potential classes, the size categories were removed and a single spillway design flood standard established for each class. This change was instituted as it was agreed that hazard potential classification should be based on threat to life and property and should not be based on the size of the dam.
- Within the Significant hazard class, the SDF was set at .5 PMF and the incremental threshold at 100-year.

- Within the Low hazard class, the SDF was set at 100-year and the incremental threshold at 50-year.
 - The Spillway Design Flood standard in many states across the nation is .5 PMF for Significant and 100-year for Low.
 - Within the Significant class, in Virginia, only a handful of the 167 dams in the category are actually engineered to an SDF that exceeds .5 PMF at this time. Those primarily include dams that are owned by corporate utilities, localities, and the state. [29> .5 PMF; only 10 were required to do so]
 - .5 PMF does represent a significant storm event. Tropical storm Gaston was approximately a .5 PMF storm.
 - Of the 167 dams in the Significant classification, approximately 50 dams requiring a potential upgrade under the proposed regulations will not now require an upgrade, thus resulting in a reduction in the fiscal impact of about \$116 million.

Hazard Potential Class of Dam	Spillway Design Flood (SDF) ^B	Minimum Threshold for Incremental Damage Analysis
High	PMF ^C	.50 PMF
Significant	.50 PMF	100-YR ^D
Low	100-YR ^D	50-YR ^E

- A note was added to encourage dam owners to build to a higher standard. “Due to potential for future development in the dam break inundation zone which would necessitate higher spillway design flood standards or other considerations, owners may find it advisable to consider a higher spillway design flood standard than is required.”
- Specified that a modified PMP may be calculated utilizing local topography, meteorological conditions, hydrological conditions, or PMP values supplied by NOAA.

4) The creation of a new section that allows for the potential reduction of the spillway design flood requirement through an incremental damage assessment for those dams meeting the specified administrative requirements. This would now be applicable to all eligible dams where previously it was only available to dams constructed prior to July 1982. Additionally, it is specified that the spillway design flood shall not be reduced below the minimum threshold values as determined by Table 1. [4VAC50-20-52]

- In consultation with the technical advisory committee, it was determined that the incremental damage assessment should be made available to all dam owners to see if a reduction in the required Spillway Design flood (SDF) could be considered where the breach of a dam would not significantly worsen downstream flooding. It was determined that a minimum threshold be established below

which the SDF could not be reduced to set out a baseline that adequately protects public safety.

- The prerequisites of the old subsection B of section 130 for determining who was eligible for conducting the engineering assessment were removed thus making the incremental damage assessment truly available to every dam owner to determine if the SDF requirement for their dam may be modified below the stated spillway design flood standard. This had been our intention all along.
- Removed the term “unacceptable” before “additional downstream threat” and added language that describes what is and would not be considered an “additional downstream threat”.
- In the proposed regulations unacceptable downstream threat was established at “water depths greater than two feet and overbank flow velocities greater than three feet per second”. This was refined to read “when water depths exceed two feet or when the product of water depth (in feet) and flow velocity (in feet per second) is greater than seven”. The rule of seven as it might be characterized is utilized by a number of states to denote unacceptable impacts.

5) The creation of a new section that sets out dam break inundation zone mapping requirements. **[4VAC50-20-54]**

- In consultation with the TAC, it was determined that both for hazard potential classification determination for all dams and for Emergency Action Plans for High and Significant dams that a dam break inundation zone map should be required. The map will specify the areas that might be inundated during both a sunny day failure, a spillway design flood with and without a dam failure, and a probable maximum flood (PMF) failure in order to demonstrate the levels where failure of the dam does not further constitute a hazard to downstream life or property. The areas to be impacted during a break should be the areas of focus for emergency warnings and evacuations. The SDF break mapping is targeted at emergency response and the PMF mapping at hazard potential classification.
- “Public utilities that may be affected” was added to the list of elements required to be shown on the map. This information is necessary to make informed hazard potential classifications.

6) A new section entitled “Reporting” was added **[4VAC50-20-59]**. This section notes that for the purposes of categorizing and reporting information to national and other dam safety databases, the size categorizations in Table 2 should be utilized. This includes both maximum impounding capacity and dam height specifications.

7) A specification that for each Operation and Maintenance certificate (Regular or Conditional) issued, the impounding structure owner shall send a copy of the certificate to the appropriate local government(s) with planning and zoning responsibilities.

[4VAC50-20-58]

- As downstream development approved by a locality may result in the change in hazard potential classification of an upstream dam and for the need for the dam to upgrade its spillway design at a significant expense to the owner, this notification

may result in localities making more informed zoning decisions regarding a development.

- The term “impounding structure breach” was changed to “impounding structure failure” in order to achieve consistent use of terms within the regulations.

8) The development of language establishing a delayed effective date for certain dams determined to have an adequate spillway capacity prior to the effective date of these regulations but that would require modifications due to changes in the regulations.

- It is specified that the owner shall submit to the Board an Alteration Permit Application and associated documents to address spillway capacity prior to the expiration of this Regular Operation and Maintenance Certificate or within 3 years of the effective date of these regulations, whichever is later. As regular certificates are good for 6 years from time of issuance, this would mean that complete applications would be due no sooner than 3 years and no later than 6 years.
- It is specified that the Alteration Permit Application shall contain a construction sequence with milestones for completing the necessary improvements within 5 years of Alteration Permit issuance. (NOTE: 8 to 11 years in total to come into compliance) [4VAC50-20-125]
 - In light of the costs associated with upgrading a dam to meet the new spillway design safety requirements and the time necessary to conduct the associated engineering studies and alteration activities, it was determined that a phased in effective date should be included in the regulations for dams that currently meet regulatory standards.

○ NO CHANGES MADE TO THIS SECTION

9) The creation of a new section expanding emergency action plan requirements for High and Significant Hazard Potential dams. [4VAC50-20-175]

- A fundamental element of protecting against the loss of life that may occur upon the failure of an impounding structure is the development of an emergency action plan that may be successfully implemented. The plan would be developed and periodically tested in coordination with all entities, jurisdictions, and agencies that would be affected by a dam failure or that have statutory responsibilities for warning, evacuation, and post-flood actions.
- Altered the frequency for table top exercises from once every 3 years to once every permit cycle (six years).
- Specified that annual drills and table top exercises for multiple impounding structures may be performed in combination if the involved parties are the same.
- Eliminated the requirement that a critique of the drill and table top exercise be provided to the Department.
- Clarified that the testing of monitoring, sensing, and warning equipment may be completed on a schedule set by Virginia Department of Emergency Management.
- Clarified that the notification chart is not a list of every individual that needs to be contacted, but it is a list of those responsible parties that need to be contacted such as emergency management, sheriffs, police, etc.

- Also clarified that the notification chart shall indicate how downstream property owners will be contacted (such as by reverse 911) and by whom.
- Specified that the EAP does not have to be signed by all of the responsible parties but shall identify them and include a certification “that the EAP has been received by these parties”.

10) The creation of a new section establishing emergency preparedness plan requirements for each Low Hazard Potential dam. [4VAC50-20-177]

- As low hazard dams do not pose the same risk to loss of life as higher hazard dams, it was determined that an abbreviated emergency preparedness plan should be required. Such a plan would allow for contacts to downstream landowners that may sustain a loss of personal property should a dam fail (ex. farmer losing livestock or machinery).
- NO CHANGES MADE TO THIS SECTION (except dam to impounding structure)

11) The creation of a series of new sections that cites the authority for the Board to establish and collect application fees for the administration of the dam safety program, administrative review, certifications, and the repair and maintenance of dams and that establishes such fees.

- **4VAC 50-20-340** Authority to establish fees
- **4VAC 50-20-350** Fee Submittal Procedures
- **4VAC 50-20-360** Fee Exemptions
- **4VAC 50-20-370** Construction Permit Application Fees
- **4VAC 50-20-380** Regular Operation and Maintenance Certificate Application Fees
- **4VAC 50-20-390** Conditional Operation and Maintenance Certificate Application Fee
- **4VAC 50-20-400** Incremental Damage Analysis Review Fee
- It is understood that the Commonwealth needs sufficient staff and fiscal resources to properly administer a regulatory program. A publication by the Association of State Dam Safety Officials (Model State Dam Safety Program, Association of State Dam Safety Officials, 1998) states 10 state regulators are needed for every 250 dams. The Department currently regulates almost 600 dams and has in its inventory over 1,700 dams, a significant number of which should be regulated, with only four Regional Engineer positions and one Program Manager. The staff workload is much higher than in other states. The fees, which have been purposely set low to reduce constituent impacts, were further reduced from proposed regulations to final regulations. Construction remained the same but Regular O&M, Conditional O&M, and Incremental Damage Assessment fees were reduced or eliminated. This resulted in an overall annual reduction in revenue from fees of approximately 60%.

12) The removal of all forms currently incorporated by reference and incorporation of required elements of the forms into the regulations. Recommended forms will still be available.

- This will allow for the modification and improvement of forms without going through a lengthy regulatory action. The Department will still utilize a public process to make substantial changes to the forms.

13) The provision of definitions or modifications to definitions for “Agricultural purpose”, “Alteration”, “Construction”, “Dam break inundation zone”, “Department”, “Drill”, “Emergency Action Plan or EAP”, “Emergency Action Plan Exercise”, “Emergency Preparedness Plan”, “Freeboard”, “Height”, “Spillway”, “Stage I condition”, “Stage II condition”, “Stage III condition”, “Sunny Day Dam Failure”, and “Tabletop Exercise”. [4VAC50-20-30]

- In order to support the above referenced amendments, the addition or alteration of definitions was necessary.
- The term “Alteration” was amended to clarify that “structural maintenance does not include routine maintenance”.
- The term “Impounding structure” was modified to include the word “dam” as a synonym.
- The term “Normal impounding capacity” was stricken and replaced with a definition for the term “Normal or typical water surface elevation” in order to more accurately reflect terminology used in the field and to provide clarity for special situations, including flood control and stormwater management dams.
- A definition for the term “Planned land-use” was added to mean “land-use that has been approved by a locality or included in a master land-use plan by a locality, such as in a locality’s comprehensive land-use plan”. The regulations specify that planned land-use for which a development plan has been officially approved by the locality in the dam break inundation zones downstream from the impounding structure shall be considered in determining the hazard classification.
- Wherever “breach” was used, it was changed to “failure” in order to achieve consistent use of terminology in the regulations.

14) Reorganizes, clarifies, and expands multiple sections related to permits and repeals sections that are incorporated into the reorganized sections.

- In an effort to provide additional clarity to the permitting process, a number of the following sections related to permitting were reorganized. It is hoped that these revised sections will provide better guidance to the regulated community as they pursue the necessary permits and seek additional information regarding the permitting processes.
- **4VAC50-20-60** Required permits.
 - Clarified that a construction permit is required for “new” impounding structures.
- **4VAC50-20-70** Construction permits.

- Clarified that a profile called for in the section was a “water surface” profile.
- Updated reporting requirement terminologies for upstream and downstream slope and freeboard.
- **4VAC50-20-80** Alterations permits.
 - Clarified that Alteration permits are not needed for routine maintenance.
 - Clarified that a profile called for in the section was a “water surface” profile.
 - Updated reporting requirement terminologies for upstream and downstream slope and freeboard.
 - Fixed an incomplete sentence regarding the signing and submittal of the Record Report to DCR.
- **4VAC50-20-90** Transfer of permits.
 - NO CHANGES MADE TO THIS SECTION (except dam to impounding structure)
- **4VAC50-20-105** Regular Operation and Maintenance Certificates.
 - Changed the term “floodplain” to “dam break inundation zone”.
- **4VAC50-20-150** Conditional Operation and Maintenance Certificate.
 - Specified that the owner’s deficiency correction plan is “approved” by the Board not “determined”.
- **4VAC50-20-155** Extension of Operation and Maintenance Certificates.
 - Added clarifying language that the owner must be making progress towards meeting the requirements “of the certificate in order to receive an extension”.
- **4VAC50-20-160** Additional operation and maintenance requirements.
- **4VAC50-20-170** Transfer of certificates.
 - NO CHANGES MADE TO THESE SECTIONS (except dam to impounding structure)

15) The creation of a new section stating that dams operated primarily for agricultural purposes which are less than 25 feet in height or which create a maximum impoundment capacity smaller than 100 acre-feet are exempt from the regulations.

[4VAC50-20-165]

- This is to clarify the exemption contained in 4VAC50-20-30 and 4VAC50-20-50 and to set out exemption validation procedures and reporting form components.
- Struck the work “possible” in front of “site visit” to read [..may be verified by the department through a site visit].

16) Updates sections related to inspections [**4VAC50-20-180**], enforcement [**4VAC50-20-200**], and unsafe conditions [**4VAC50-20-220**] to reflect changes in the Code pursuant to Chapter 30 (HB597) of the 2006 Virginia Acts of Assembly.

- These changes will conform the regulations to 2006 changes in the Virginia Dam Safety Act.
- In section 180, struck the requirement that monitoring shall be “full-time”.

- NO CHANGES MADE TO SECTIONS 200 and 220.

17) Updates the section [4VAC50-20-20] to specify that the design, inspection and maintenance of impounding structures shall be conducted utilizing competent, experienced, engineering judgment that takes into consideration factors including but not limited to local topography and meteorological conditions. This change is clarifying in nature and reflects current program administration.

- Clarified that the forms “noted” in the regulation are available on the DCR website.

18) Added an additional existing section [4VAC50-20-190] to the final regulation and modified it to additionally allow for an informal hearing should an owner be aggrieved by an action of the director or board. Also specified that a formal hearing may only be granted with the consent of the Board.

19) General improvements to sections for clarity.

- 4VAC50-20-210 Consulting committees.
- 4VAC50-20-230 Complaints.
- 4VAC50-20-240 Design of structures.
- 4VAC50-20-260 Spillway design.
 - Added an explanatory note on overtopping to explain that overtopping is an example of an occurrence that jeopardizes the safety of the impounding structure.
- 4VAC50-20-270 Principal spillways and outlet works.
- 4VAC50-20-280 Drain requirements.
 - Clarified that existing drains shall be kept operational and that when practicable existing impounding structures shall be retrofitted to permit draining.
- 4VAC50-20-290 Life of impounding structures.
 - Clarified that impounding structure components shall be maintained.
- 4VAC50-20-300 Additional design requirements.
- 4VAC50-20-310 Plans and specifications.
- 4VAC50-20-320 Acceptable design procedures and references.
 - Fixed a typo; “Agency” to “Energy”
- 4VAC50-20-330 Other applicable dam safety references.
 - Specified that other dam safety references may include manuals, guidance, and forms provided by the Department.

With that Mr. Chairman, I conclude my remarks and staff and I are available for questions now and or following the public comment period,

A copy of the final regulations, as amended, is available from DCR.

Mr. Dowling reviewed the proposed motion.

Motion to approve, authorize and direct the filing of final regulations related to the Board's Virginia Impounding Structure Regulations (§ 4 VAC 50-20)

The Board approves these final regulations and authorizes the Director of the Department of Conservation and Recreation and the Departmental Regulatory Coordinator to submit the Board's Virginia Impounding Structure ~~proposed~~ final regulations and any other required documents to the Virginia TownHall and upon approval by the Administration to the Registrar of Virginia.

This authorization is related to those changes that are subject to the Administrative Process Act and to the Virginia Register Act. The Department shall follow and conduct actions in accordance with the Administrative Process Act, the Virginia Register Act, the Board's Regulatory Public Participation Procedures, the Governor's Executive Order 36 (2006) on the "Development and Review of Regulations Proposed by State Agencies".

This authorization extends to, but is not limited to, the drafting of the documents and documentation as well as the coordination necessary to gain approvals from the Department of Planning and Budget, the Secretary of Natural Resources, the Governor, the Attorney General, and the Virginia Registrar of Regulations for the final regulatory action publication.

The Board requests that the Director or the Regulatory Coordinator report to the Board on these actions at subsequent Board meetings.

NOTE: Mr. Dowling noted that in the first paragraph, line three, the word "proposed" should be changed to "final."

MOTION: Ms. Hansen moved approval of the amended motion as presented by staff.

SECOND: Mr. Altizer

DISCUSSION: Mr. Dowling said that DCR had a letter from Ms. Andrews at the Office of the Attorney General and that stated that the Board had the authority to approve the regulations.

Mr. Maitland commended staff on work done, but noted that he would have preferred more time to review the information prior to the meeting.

Ms. Hansen said that she was very pleased with the process.

Mr. Simms and Ms. Packard also commended the process and the staff.

Mr. McNear asked if a 0.5 PMF had an equivalent 100-year flood.

Mr. Robinson said that when the term PMF was developed it was not intended to have a frequency assigned and that it could be a 10,000 or 1 million year flood.

Mr. McNear asked if that related to a foot of rain in a 24-hour period.

Mr. Robinson said that typically Virginia was looking at between 35 to 38 inches of rain.

Mr. Maitland called for public comment regarding the proposed regulations.

Public Comment

Eldon Rucker, Lake of the Woods Association

Mr. Rucker gave the following statement:

Good afternoon, I am Elton, Rucker, President of Lake of the Woods Association. Thank you for the opportunity to comment on these proposed regulations. As I am sure you are aware, Lake of the Woods has been involved in this effort for some time and has a great deal of interest in the outcome of these regulations.

There has been a lot of excellent work involved to get us to this point and we can be proud that this has resulted in some giant steps forward to improve public safety in the Commonwealth. Most notably, this regulation finally sets requirements for comprehensive and operable Emergency Action Plans that will undoubtedly save lives should they be needed.

The entire regulatory process probably has taken longer than any of us anticipated, but this is indicative of the many hours of government, industry, and public consideration that have brought us to this point. The time devoted and the importance of this effort confirm that it is very important that these regulations be done right the first time. In this regard, I would like to point out some unresolved issues that should be considered in your deliberations today before the regulations are finalized.

The most obvious is the significant cost that this regulation will impose on the Virginia taxpayers. Many of us who have dealt with actual costs to modify our dams have pointed out in our comments that the estimates of expenditures are severely understated. Even with the changes made, this regulation will require hundreds of millions of dollars in new spending (much greater than the current DCR estimate). Unfortunately, the sole response to comments provided on the earlier proposal was a reference to the source of the estimates but no acknowledgement of the real impact on our citizens.

In addition, the regulations are based on some unrealistic premises, including improbable and unrealistic PMF occurrences and impracticable safety standards. The net result of such assertions is astronomical cost increases with little or no risk reduction.

In this regard, the dam safety industry and FEMA have made great inroads to develop tools to identify the relative risk of dams and to identify those that most impact public safety and why.

Such tools would provide a measure of risk from which the urgency of actions can be judged and allow the state to allocate resources to where they are most needed.

In those times of limited private and public resources, we need to ensure that these regulations are considered in a common sense and fiscally responsible manner. Thank you for your time and thoughtful consideration of these matters.

Mr. Ralph Hollm

Mr. Hollm said that he was the coordinator for the petitioners who live in the inundation zone of the dam. He asked that the Board take notice of item 72 of page 22 of the written comments provided. He said this highlighted information provided by a professional engineer who works in Northern Virginia and commutes from Lake of the Woods. Mr. Hollm presented a copy of a related petition to Board members. A copy is available from DCR.

Charles deSeve, Lake Barcroft Watershed Improvement District

Mr. deSeve said that he was Chairman of the Board of Trustees of the Lake Barcroft Watershed Improvement District (WID). He noted that Lake Barcroft has around 1,000 homes clustered around the lake and the dam. He said that representatives from the WID spoke at the public hearing and also submitted extensive written comments. Those comments had outlined several strong objectives to the revised regulations. However, he noted that since that time the WID has been able to work with DCR staff to gain an understanding of how the regulations would work. He said their concerns have been answered and that the WID would like to withdraw their previous objections.

Michael Shaffer, Virginia Municipal Stormwater Association

Mr. Shaffer said that VMSA is a relatively new association formed from municipalities across the state to look at common stormwater programs. He noted that some of their concerns had been addressed in the regulations.

Mr. Shaffer said that the concern was that the regulations would be a huge financial burden for local communities.

Tim Mitchell, City of Lynchburg

Mr. Mitchell said that he is Director of Utilities for the City of Lynchburg, is on the VMSA Board, and was a member of the Technical Advisory Committee. He distributed copies of a letter that had recently been sent to DCR after receiving the latest draft of the regulations. A copy of that letter is available from DCR.

Mr. Mitchell said he would like to make a couple more points. First, he expressed appreciation to Mr. Maroon and the DCR staff. He said that it had been a good experience working with DCR on the regulations. He said that the regulations have come a tremendous way from the first version seen by the TAC to the present version.

Mr. Mitchell said the first item he wanted to discuss was the spillway design flood standards and rightsizing of impounding structures. He said that the City recognized the need to eliminate the grandfathering clause in the regulation in order to meet public safety standards. However, he said that there still should be a mechanism where local circumstances can be addressed when determining spillway size. He said that the agency should retain the flexibility to right-size the spillway when there is potential for a large upgrade costs vs. a potentially small benefit. He said this could possibly involve including a risk analysis in the decision making process. He gave the example where a dam failure with probable maximum flood was not materially different than the probable maximum flood alone there would be a critical devastation from the event regardless of whether or not there is a dam in place. He said there could be a situation where a dam failure on top of a probable maximum flood would only have marginal or very little additional impact to the downstream area.

Mr. Mitchell said in a situation like that funding may be better utilized, instead of doing a massive upgrade to the dam and the spillway, to mitigate some of the downstream affects of more frequent flooding.

Mr. Mitchell said that in the letter the City had suggested language that would allow localities to have some flexibility depending on the situation and would potentially refer the decision to reduce the spillway design to the Board for further consideration.

Mr. Mitchell said the other item the City wanted to comment on was the hazard classification. He said this is an area that was somewhat confusing in trying to figure out how this worked together. He said that as written the regulations are confusing with regard to how the initial dam classification is determined. He said that Section 54 D requires an analysis utilizing the spillway design flood, however, the spillway design flood is unknown until the hazard classification is made. He said this could potentially be clarified in the guidance document.

Mr. Mitchell said that it would be beneficial to wait for further action until the actions of the General Assembly Session are known and finalized.

Mr. Maroon asked Mr. Mitchell to clarify what they saw as potential impact of the current legislation.

Mr. Pomeroy said that one of the issues that had come up was that the legislation provides cost sharing. He said he thought most members thought that was a good idea. He said that ties in directly to the regulation with the different tiers and sizes and that there might be situations where the sizing of the dam was uncertain. The legislation speaks of how the costs would be shared.

Mr. Maroon said that if the legislation passes then that could be addressed with the regulations as the process moves forward.

John Bailey, Lake of the Woods Association

Mr. Bailey said he had appreciated being involved in the process. He said a remaining concern is the estimated funding impact. He said there were a lot of structures that were still unknown but that might impact the bottom line on the numbers.

He said that LOWA was also concerned about the incremental damage assessment. He said that a guidance document would be beneficial for owners to provide a matrix of what can be done to reduce the impact.

Lisa Cahill, Watershed Services

Ms. Cahill said that with regard to the frequencies of the PMF that it was difficult to predict since rainfall data had only been collected since the 1930s. She said the struggle was how to predict a 10,000-year or million-year event with just a few years of actual data.

Ms. Cahill said that the regulations in their current form were a huge enhancement for the safety of Virginians and also provide a great safeguard for the environment. She thanked DCR and the Board for the progress on the regulations.

Mr. Maitland said that he believed the regulations were going in the right direction. He noted a continued concern with inundation zones and the need to stop building in those zones.

Mr. Maroon said that the issue of inundation zones has been on the table for quite some time. He said that the discussion of the regulations lead to the introduction of House Bill 837 and that if that legislation is passed Mr. Maitland's concerns would be addressed. He said there would still be responsibility on the part of the dam owner. The dam owner would need to, under the regulations, do the mapping required. Under the legislation, the dam owner would be required to file that map with the local government so that as the development is proposed the local government could assess the potential impact.

Mr. Maroon said it would be helpful for Mr. Dowling to address the phased in approach of the regulations.

Mr. Dowling noted that when the regulations go into effect, dam owners will have between eight to eleven years to come into compliance. That is contained in section 50-20-125, line 1100. It says if the regular certificate expires in the first three years after regulations come into effect the dam owner has three years to start the process. Once the dam owner has the alteration permit the owner has an additional five years, giving them a total of eight years. For those who have certificates that expire in 4-6 years, an additional five years would mean 9-11 years total to come into compliance.

Mr. Dowling said that DCR would continue to seek fiscal solutions to assist dam owners with these repairs.

Mr. Maroon asked Mr. Dowling to address the dam that doesn't have the regular operating certificate.

Mr. Dowling said it would work essentially the same as the current process through the conditional permit.

Mr. Maroon said comments were also received from the Virginia Manufacturers' Association with concern that the regulations would bring industrial ponds under regulation. He said that the regulations do not change what will actually be regulated.

Ms. Packard asked that with the Emergency Action Plan (EAP), if there is a dam with a considerable amount of development downstream, will the inundation zone maps show what areas localities should focus on for the purposes of the EAP.

Mr. Dowling said that the dam break inundation maps will show the difference between a flood and a failure of the dam. The maps will show areas where localities need to focus for EAP purposes.

Mr. Maitland asked if once a locality was provided an inundation zone map if they would be liable for allowing further downstream development.

Ms. Andrews said that the Dam Safety Act says that no one shall maintain an unsafe dam and there is a provision that says, even if the owner complies, the owner is not released from liability. She said that these regulations do not address that issue.

Mr. Maitland said the concern is not with existing building, but with additional building in the inundation zone.

Ms. Packard asked if development in an inundation zone could be addressed through legislation.

Mr. Maroon said that House Bill 837 says that if there is development that occurs below the dam, and the hazard potential for the dam changes, partial responsibility for the spillway upgrades would fall to the developer. If additional development comes in, it probably would not have an additional impact on the dam because it's likely already been upgraded.

Mr. Maitland called for the vote.

VOTE: Motion carried unanimously

Dam Safety Certificates and Permits

Mr. Browning presented the Dam Safety Certificates and Permits. He provided members with updated information as reflected below.

Compliance Issues - Enforcement Actions

Mr. Browning reviewed the enforcement actions. A copy of the enforcement list is available from DCR.

No Board action was necessary on the Enforcement Actions.

Compliance Issues - Conditional Certificates

Mr. Browning presented the following recommendations for Conditional Certificates.

00345 Crozet Sportsman Club Dam	ALBEMARLE	Class III Regular	1/31/09
04104 Swift Creek Dam	CHESTERFIELD	Class II Regular	1/31/09
04710 South Wales Country Club Dam	CULPEPER	Class III SE	1/31/09
06907 Sheppard Lake Dam	FREDERICK	Class III Regular	1/31/09
08518 Forest Hill Lake Dam	HANOVER	Class II Regular	1/31/09
13713 Decoursey Dam	ORANGE	Class III SE	7/31/08
17920 Walden Ten Dam #1	STAFFORD	Class III SE	7/31/08

MOTION: Ms. Hansen moved that the Virginia Soil and Water Conservation Board approve the Conditional Operation and Maintenance Certificate Recommendations as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Mr. Altizer

DISCUSSION: Mr. Browning noted that Swift Creek Dam is owned by the Department of Conservation and Recreation.

VOTE: Motion carried with Mr. Maroon abstaining

Regular Operation and Maintenance Certificate Recommendations

00911 Buffalo River Dam No. 3	AMHERST	Class I Regular	1/31/14
00912 Buffalo River Dam No. 3	AMHERST	Class I Regular	1/31/14
04706 Mountain Run Dam #18	CULPEPER	Class I Regular	1/31/14
05301 Lake Jordan Dam	DINWIDDIE	Class II Conditional	1/31/14
06515 Andersons Dam	FLUVANNA	Class III Conditional	1/31/14
11302 Beautiful Run Dam #2A	MADISON	Class III Regular	1/31/14
11303 Beautiful Run Dam #4	MADISON	Class III Regular	1/31/14
11305 Beautiful Run Dam #6	MADISON	Class III Regular	1/31/14
11306 Beautiful Run Dam #7	MADISON	Class III Regular	1/31/14
11307 Beautiful Run Dam #10	MADISON	Class III Regular	1/31/14
11310 Hablutzel Dam	MADISON	Class III Regular	1/31/14
17104 Woodstock Dam	SHENANDOAH	Class I Conditional	1/31/14
17917 Celebrate Virginia Pond #12 Dam	STAFFORD	Class III Construction	1/31/14

MOTION: Mr. Altizer moved that the Virginia Soil and Water Conservation Board approve the Regular Operation and Maintenance Certificate Recommendations as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Ms. Dalbec

DISCUSSION: None

VOTE: Motion carried unanimously

Construction and Alteration Permits

Mr. Browning presented the following recommendations for Construction and Alteration Permits.

04104 Swift Creek Dam	CHESTERFIELD	Class II Alteration	2/1/08 - 9/30/08
06914 Summit Dam	FREDERICK	Class I Alteration	2/1/08 - 1/31/09
08541 Carter's Pond Dam	HANOVER	Class II Construction	2/1/08 - 7/31/09
08544 Walden's Pond Dam	HANOVER	Class II Construction	2/1/08 - 7/31/09
11315 Deep Run Farm Dam	MADISON	Class III Alteration	2/1/08 - 1/31/2010
16305 Willow Creek Dam	ROCKBRIDGE	Class I Alteration	2/1/08 - 1/31/09

MOTION: Mr. Simms moved that the Virginia Soil and Water Conservation Board approve the Permit Recommendations as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Mr. Altizer

DISCUSSION: None

VOTE: Motion carried with Mr. Maroon abstaining

Extensions

Mr. Simms asked how many extensions a dam would typically be allowed.

Mr. Browning said that in most cases, the maximum length of an extension was two years, but there was no limited on how many times an extension could be extended. However, he noted that there were 8 dams with numerous extensions on the current list that had been given a conditional certificate for from three to five years, but were not making progress. He said that he would like the consensus of the Board to send the dam owner a letter and ask them to reply to the Board as to why they will not comply.

Mr. Maroon said that one possibility would be to ask the dam owner to appear before the Board. He suggested a letter from the Chair would allow the owners to present their case.

Mr. Browning said that DGIF continues to work to get an accurate picture of their dam inventory. Eleven DGIF dams come before the Board for action in March. Based on available information, Mr. Browning said that DGIF did not believe they would be ready to move forward with those dams.

Mr. Maroon noted that DGIF is making progress, although perhaps not at the desired rate. He said that money had been proposed but was not in the Governor's package for these repairs. He noted also that DGIF has a new director. He said that with the concurrence of the Board DCR would continue to work with DGIF.

Mr. Browning presented the following list of extension recommendations.

00385 Mountain Valley Dam #1	ALBEMARLE	Class III Conditional	5/31/08
00701 Amelia Dam	AMELIA	Class III Conditional	7/31/08
01904 Stoney Creek Reservoir Dam	BEDFORD	Class I Conditional	1/31/09
01905 Bedford Lake Dam	BEDFORD	Class II Conditional	5/31/08
01906 Springhill Lake Dam	BEDFORD	Class II Conditional	7/31/08
01908 Spring Lake Dam	BEDFORD	Class III Conditional	7/31/08
01930 Elk Garden Lake Dam	BEDFORD	Class III Regular	5/31/08
02303 Rainbow Forest Dam	BOTETOURT	Class I Conditional	7/31/08
06702 Upper Blackwater River Dam #4	FRANKLIN	Class I Conditional	1/31/10
07912 Twin Lakes Dam #2	GREENE	Class III Conditional	7/31/08
07913 Twin Lakes Dam #1	GREENE	Class III Conditional	7/31/08
08909 Horse Pasture Creek Dam	HENRY	Class II Conditional	1/31/10
08910 Lanier Dam	HENRY	Class II Conditional	9/30/08
08913 Smith River Dam	HENRY	Class I Regular	3/31/08
09513 Cranstons Pond Dam	JAMES CITY	Class III Conditional	1/31/09
10934 South Anna Dam #22	LOUISA	Class II Regular	5/31/08
14319 Elkhorn Lake Dam	PITTSYLVANIA	Class III Conditional	7/31/08
14533 Westlake Dam	POWHATAN	Class III Conditional	5/31/08
16901 Bark Camp Dam	SCOTT	Class III Regular	3/31/08

MOTION: Mr. Altizer moved that the Virginia Soil and Water Conservation Board approve the extension recommendations as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

Update on Dam Safety Loan Round

Mr. Maroon said that the application process closed on February 1, 2008. At the time of the meeting there had been only one applicant. He said that it would take time to get the word out that the funds are available. He noted that the fund was a revolving loan fund and not a grant.

Mr. Maroon noted that funds not used would carry over to the next round.

Applications received will be brought to the March meeting for approval.

MOTION: Mr. Altizer moved that the Virginia Soil and Water Conservation Board approve the extension recommendations as presented by DCR staff and that staff be directed to communicate the Board actions to the affected dam owners.

SECOND: Ms. Hansen

DISCUSSION: None

VOTE: Motion carried unanimously

District Resignations and Appointments

Mr. Meador presented the District Resignations and Appointments.

Lord Fairfax

Resignation of Meryl N. Christiansen, Warren County, effective 1/10/08, appointed director position (term of office expires 1/1/11).

Recommendation of M. Lauck Walton, Shenandoah County, to fill unexpired appointed term of Meryl N. Christiansen (term of office to being on or before 3/2/08 - 1/1/11).

Northern Neck

Resignation of Samuel M. Johnson, Westmoreland County, effective 12/31/07, appointed Extension Agent director position (term of office expires 1/1/09).

Recommendation of Matthew A. Lewis, Lancaster County, to fill unexpired Extension Agent term of Samuel A. Johnson (term of office to begin on or before 3/2/08 - 1/1/09).

Peter Francisco

Resignation of Terry Seal, Cumberland County, effective 12/31/07, appointed director position (term of office expires 1/1/11).

Recommendation of Barbara J. Teeple, Buckingham County, to fill unexpired appointed term of Terry Seal (term of office to begin on or before 3/2/08 - 1/1/11).

Piedmont

Resignation of Bobby Long, Prince Edward County, effective 2/9/08, appointed Extension Agent director position (term of office expires 1/1/09).

Recommendation of Ron Duvall, Nottoway County, to fill unexpired Extension Agent term of Bobby Long (term of office to begin on or before 3/2/08 - 1/1/09).

Tidewater

Resignation of Carl Thiel-Goin, Matthews County, effective 1/30/08, elected director position (term of office expires 1/1/12).

MOTION: Mr. Simms moved that the District Resignations and Appointments be approved as submitted.

SECOND: Ms. Dalbec

DISCUSSION: None

VOTE: Motion carried unanimously

Mr. Meador reminded the Board that the "Financial Assistance For Soil and Water Conservation Districts" policy must be reviewed by the Board at the May meeting. He provided members a copy of the policy and noted that this would be an item for discussion at the March 20 meeting.

Partner Agency Reports

Department of Conservation and Recreation

Mr. Frye presented the report for the Department of Conservation and Recreation. A copy of this report is included as Attachment # 3.

Natural Resources Conservation Service

The report for the Natural Resources Conservation Service is included as Attachment # 4.

Public Comment

There was no additional public comment.

Mr. Maitland expressed a concern that a Director from the Northern Neck area had expressed to him regarding the regulation of agricultural ponds. The Director was concern about reclassification of his pond.

Mr. Robinson said that the facility must be used primarily for agricultural purposes, but not exclusively. The farmer fills out the paperwork to declare the facility for agricultural purposes. DCR will review that on a six year basis.

Mr. Browning said there will be education seminars regarding the new regulations.

Next Meetings

The next meetings of the Virginia Soil and Water Conservation Board Are

Thursday, March 20, 2008
The Patrick Henry Building
East Reading Room
Richmond, Virginia

Thursday, May 15, 2008
Department of Forestry
First floor Training Room
Charlottesville, Virginia

Adjourn

As there was no further business the meeting was adjourned.

Respectfully submitted,

Granville M Maitland
Vice Chair

Joseph H. Maroon
Director

Attachment #1

GENERAL ASSEMBLY REPORT
February 1, 2009 – Virginia Soil and Water Conservation Board

Natural Resources Funding/Nonpoint Funding

**HB1335 NR funding for Ag BMPs; allocates revenue generated by sales and use tax.
(Companion to SB511)**

HB 1335 Patrons: Landes, Armstrong, Barlow, Bouchard, Brink, Carrico, Dance, Gilbert, Ingram, Lewis, Lingamfelter, Lohr, Marshall, D.W., May, Moran, Morgan, Nutter, Peace, Plum, Pogge, Poindexter, Saxman, Scott, E.T., Shannon, Sherwood, Sickles, Valentine, Ware, O., Ware, R.L. and Wright; *Senators:* Blevins, Deeds, Edwards, Hurt, Lucas, Puckett, Quayle, Reynolds, Ticer and Vogel

01/23/08 House: Reported from Agriculture, Chesapeake and Natural Resources with amendment (22-Y 0-N) and Referred to Committee on Appropriations; Assigned to sub: Economic Development, Agriculture and Natural Resources

**SB511 NR funding; revenue generated by sales and use tax to fund agricultural practices.
(Companion to HB1335)**

Patrons: Whipple, Blevins, Deeds, Edwards, Hurt, Lucas, Northam, Obenshain, Puckett, Quayle, Reynolds, Ticer and Vogel; *Delegates:* Armstrong, Barlow, Bouchard, Brink, Dance, Ingram, Lewis, Lingamfelter, Moran, Morgan, Plum, Scott, E.T., Shannon, Sherwood, Sickles, Valentine and Wright

01/21/08 Senate: Reported from Agriculture, Conservation and Natural Resources with amendment (15-Y 0-N) and Rereferred to Finance

Allocates annually 10 percent of the revenue generated by a one percent sales and use tax, not to exceed \$100 million, to fund agricultural best management practices. The sales tax allocation would be deposited into the newly established Virginia Natural Resources Commitment Fund and distributed to the Department of Conservation and Recreation's Agricultural Best Management Practices Cost-Share Program for the implementation of agricultural best management practices (BMP). Fifty-seven percent of the moneys are to be used for matching grants to implement BMPs on agricultural lands exclusively in the Chesapeake Bay watershed and 38 percent of the moneys would be used for all other lands in the Commonwealth. Five percent of the moneys would be allocated to soil and water conservation districts.

HB727 NR funding; allocates annually percentage of revenue generated by sales & use tax to Ag BMPs and local PDR programs; includes a phase-in.

Patron: Scott, E.T.

Allocates annually to natural resources funding a percentage of the revenue generated by a one percent sales and use tax. The allocations would be as follows: (i) 5 percent of the revenue generated by a one percent sales and use tax for the 2008-2009 fiscal year; (ii) 7.5 percent for the 2009-2010 fiscal year; (iii) 10 percent for the 2010-2011 fiscal year; and (iv) 12.5 percent for the month of July 2011 and for each month thereafter but ending for the month of June 2018. The allocation for any fiscal year would not exceed \$175 million.

One-third would be used to provide matching grants to the local purchase of development rights programs and two-thirds would be distributed to the Ag BMPs.

01/08/08 House: Referred to Committee on Appropriations; Assigned to sub: Economic Development, Agriculture and Natural Resources

SB470 NR funding; uses recordation tax and unused land preservation tax credits; would fund PDR, VLCF, Ag BMPs.

Patron: Hanger

Provides annual funding for natural resources from (i) 20 percent of the remaining revenues of state recordation taxes that are not currently allocated and (ii) unallocated land preservation tax credits in each calendar year. Of the revenues allocated to natural resources, 17 percent would be used to provide matching grants to local purchase of development rights programs, 16 percent would be distributed to the Virginia Land Conservation Fund, and 67 percent would be distributed to the Agricultural Best Management Practices Cost-Share Program for agricultural best management practices.

01/09/08 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources

SB513 and HB360 Nonpoint source pollution reduction; Clarifies that the Governor & General Assembly can provide direct funding to DCR for WQIF. (AGENCY BILLS)

SB513 Patron: Hanger

HB360 Patrons: Bulova and Plum

Authorizes the Governor and General Assembly to provide additional funding in excess of the amount deposited in the Water Quality Improvement Fund from a budget surplus to fund nonpoint source pollution reduction activities.

SB513: Passed Senate (39-Y 0-N) and communicated to House

HB360: Reported from Ag., Ches.& NR (21-0); Referred to Committee on Appropriations; Assigned to sub: Economic Development, Agriculture and Natural Resources

Water Quality

HB392 Stormwater ordinances; authorizes localities classified as MS4 to enact.

Patron: Bulova

Authorizes localities classified as MS4 stormwater localities to enact ordinances to enforce stormwater permits. The bill would give these localities the authority to seek civil charges and injunctive relief, and impose civil penalties. Any person violating the ordinance would be subject to a criminal penalty of a Class 1 misdemeanor.

01/30/08 House: Reported from Committee on Agriculture, Chesapeake and Natural Resources with amendment (22-0); 01/31/08 House read first time

HB962 and SB454 Residential Property Disclosure Act; disclosure of stormwater detention facilities.

HB962 Patron: Shannon

SB454 Patrons: Petersen; Delegate: Eisenberg

Requires the owner to disclose to the purchaser prior to settlement the presence of any storm water detention facilities on the property.

HB962: Referred to Committee on General Laws; assigned to Housing subcom

SB454: Referred to Committee for Courts of Justice; assigned to Civil subcom

HB976 and SB457 Single lot development; developers to provide stormwater management.

HB976 Patron: Shannon

SB457 Patrons: Petersen; Delegate: Eisenberg

Provides that the developer of a single lot shall provide storm water management where substantial redevelopment of such lot is proposed. Substantial redevelopment" shall be deemed to occur when land-disturbing activities occur on more than 15 percent of the square footage of any single lot.

HB976: Referred to Committee on Counties, Cities and Towns

SB457: **Stricken** at request of Patron in Committee on Local Government

HB1552 E&S plan; file specifications for stream restoration banks annually.

Patron: Lingamfelter

Allows any person creating and operating stream restoration banks in more than one jurisdiction to file general erosion and sediment control specifications for stream restoration banks annually with the Virginia Soil and Water Conservation Board.

01/30/08 Reported from House Committee on Agriculture, Chesapeake and Natural Resources (22-0); 01/31/08 House read first time

HB1567 Nutrient management training; voluntary program for commercial providers of lawn care, etc.

Patron: Marsden

Expands an existing training program for nutrient management training to include a voluntary program for commercial providers of lawn care or landscaping services to reduce nonpoint source pollution.

01/18/08 House: **Continued to 2009** in Committee on Agriculture, Chesapeake and Natural Resources

SB378 Soil & Water Conservation Board to promote reuse and reclamation of stormwater.

Patron: Stuart

This amended legislation in the nature of a substitute provides the Department of Conservation and Recreation's Virginia Soil and Water Conservation Board authorization to adopt regulations that promote the reclamation and reuse of stormwater in order to protect state waters and the public health and to minimize the direct discharge of pollutants into state waters.

01/24/08 Passed Senate (39-Y 0-N) and communicated to House

Soil and Water Conservation Districts

HB119 Attorney General to represent soil and water conservation districts.

Patron: Landes

Requires the Attorney General to represent Soil and Water Conservation Districts in any suits or actions brought by the districts or district directors. Currently, attorneys for the Commonwealth are charged with the responsibility of representing districts and district directors.

12/17/07 House: Referred to Committee on General Laws; assigned to Professional/Occupational/ Administrative Process subcom

State Parks

HB109 Firearms; regulation thereof by state entities.

Patron: Cole

Prohibits a state agency, council, commission, or other entity from adopting any rules, regulations, or policies governing the purchase, possession, transfer, ownership, carrying, storage, or transporting of firearms, ammunition, or components or combinations thereof, unless expressly authorized by statute. The prohibition does not apply to state, local, and regional correctional facilities or mental health facilities, nor is it to be construed to prohibit a law-enforcement officer from acting within the scope of his duties. Any rule, regulation, or policy adopted prior to July 1, 2007, except for those specifically authorized by statute, will be invalid.

12/17/07 House: Referred to Committee on Militia, Police and Public Safety

HB378 Golden Age Card Program; DCR to establish.

Patrons: Marshall, D.W., Athey, Carrico, Cole, Cosgrove, Crockett-Stark, Massie, Merricks, Morgan and Sherwood

Provides for DCR to establish a Virginia Golden Age Card authorizing citizens of the Commonwealth who are 60 years of age or older to enter the camping facilities of Virginia's state parks at a 50% discount for a maximum of 14 days in any calendar year.

01/30/08 House: **Continued to 2009** in Committee on Agriculture, Chesapeake and Natural Resources

HB1448 State park employee housing; DCR authority to lease private residential property.

Patron: Plum

Authorizes the Director of DCR to lease private residential properties that are near state parks and then subsequently sublease these properties to state park employees.

01/30/08 House: Reported from Committee on Agriculture, Chesapeake and Natural Resources with amendments (22-0); 01/31/08 House read first time

SB261 Law Officers' Retirement System; adds conservation officers as member.

Patron: Deeds

Adds conservation officers of DCR as members of VALORS.

01/08/08 Senate: Referred to Committee on Finance; Reportedly the bill has been **carried over to 2009**

SB303 Lake Anna State Park; authorizes right-of-way easement.

Patron: Houck

Authorizes DCR to grant a 30-foot-wide easement across a portion of Lake Anna State Park in exchange for the extinguishment of an existing right-of-way easement.

01/30/08 Senate: Reported from Committee for Courts of Justice with substitute

SB254 Staunton River State Park; authorizes 20-foot wide easement across portion.

Patron: Ruff

Authorizes DCR to grant a 20-foot wide easement across a portion of the Staunton River State Park in exchange for the extinguishment of an existing right-of-way easement.

01/30/08 Senate: Reported from Committee for Courts of Justice with substitute

Dam Safety

HB837 Dam break inundation zones; localities with authority to address development. (AGENCY BILL)

Patrons: Sherwood, Eisenberg, Landes, Nichols, Plum, Scott, E.T., Shuler and Ware, R.L.;

Senators: Deeds, Hanger, Puckett and Ticer

Provides localities with the authority to address development in dam break inundation zones. The bill directs developers to assist dam owner with required upgrades and requires additional disclosure and notification procedures for dam owners.

01/23/08 Reported from House Ag., Ches. and Natural Resources with substitute (20-Y 2-N)

01/29/08 Passed House (94-2)

01/30/08 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources

SB594 Exempts dam owners of those not dangerous & historically significant from correcting deficiencies.

Patrons: Norment and McDougle; *Delegates:* Barlow, Hamilton and Pogge

Exempts the owners of historically significant dams that do not present an imminent danger from having to correct deficiencies identified in a dam safety inspection conducted by DCR.

01/09/08 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources

Outdoor Recreation

HB260 Abandoned railroad corridors; allows DCR to acquire.

Patron: Fralin

Allows the Department to acquire abandoned railroad corridors for use as greenways, linear parks, or potential transportation corridors.

01/16/08 House: **Tabled** in Agriculture, Chesapeake and Natural Resources

HB1142 Delays reversion of Virginia Explore Park to Commonwealth.

Patron: Fralin

Delays the reversion of title to real property from the Virginia Recreational Facilities Authority to the Commonwealth, in the event that the Authority ceases to operate a project, until January 1, 2009. This bill contains an emergency clause.

01/09/08 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources

HB1496 and SB740 Establishes Southwest Regional Recreation Authority.

HB1496 Patron: Bowling

SB740 Patron: Puckett

Establishes an authority for Southwest Virginia to create a multi-purpose regional recreational area similar to, and potentially adjoining, such areas in West VA and KY. The recreational area might consist of various trails and other amenities on private open-space lands where members of the public could, for example, hunt, fish, boat, camp, ride motorcycles or all-terrain vehicles, ride mountain bikes, or ride horses. The SW Regional Recreation Authority would have various

powers to manage the area by raising funds, employing staff, and adopting rules punishable by civil penalties. Landowners participating in the recreation area would be afforded a limited liability for persons engaging in recreational activities on their property.

HB1496: Referred to Committee on Counties, Cities and Towns

SB740: Reported from Committee on Local Government with amendments (15-0); Senate read first time

HJ100 Study by DCR of privatizing hospitality-related services at state parks.

Patron: Poisson

Provides for DCR to study the privatization of hospitality-related services and functions at Virginia's state parks.

01/08/08 House: Referred to Committee on Rules; Reportedly stricken from the docket.

Scenic River

HB455 and SB40 Designates portions of North and South Mayo Rivers in Henry County as State scenic rivers.

HB455 Patrons: Merricks, Armstrong and Marshall, D.W.; Senator: Reynolds

SB40 Patrons: Reynolds and Hurt; Delegate: Eisenberg

HB455: Passed House (94-Y 2-N); Referred to Senate Agriculture, Cons.& Natural Resources

SB40: Passed Senate (37-Y 0-N) and communicated to House

Bay Preservation Act

SB386 Chesapeake Bay Preservation Act; redefines localities that are under jurisdiction.

Patron: Martin

Redefines the localities that are under the jurisdiction of the Chesapeake Bay Preservation Act (CBPA). The bill changes the definition of which localities constitute Tidewater Virginia to include only those localities wholly east of Interstate 95.

01/08/08 Senate Committee on Agriculture, Conservation and Natural Resources

HB528 Chesapeake Bay Preservation Act; ordinance appeals.

Patron: Pogge

Allows persons who do not agree with the decision of a local board regarding a local Chesapeake Bay Preservation ordinance at least 30 days to file an appeal with the circuit court.

01/30/08 House: Reported from Committee on Agriculture, Chesapeake and Natural Resources with substitute (22-0); House read first time

Land Conservation

HB662 Land preservation tax credit program; confidentiality of taxpayer information. (AGENCY BILL)

Patron: Lewis

Includes as a confidential tax document any document that is required to be filed with the DCR under the land preservation tax credit program.

01/08/08 House: Referred to Committee on Finance sub: 2

HB1283 Land preservation tax credit; elimination of verification of conservation value.

Patrons: Athey, Carrico, Cole, Lohr, Merricks, Scott, E.T. and Sherwood

Eliminates DCR verification of conservation value of land donations that will result in \$1 million or more in land preservation tax credits. Currently, as a condition of the issuance of a land preservation tax credit, the Department must verify the conservation value of donations that will result in \$1 million or more in tax credits. The bill also would establish a review and administrative appeal process in which proposed conveyances of donations would be reviewed by the Department of Taxation for purposes of determining whether the proposed donation would qualify for a land preservation tax credit. The review process would eliminate the current requirement that the taxpayer execute or record the land donation prior to applying for a land preservation tax credit.

01/09/08 House: Referred to Committee on Finance sub: 2

SB259 Land preservation tax credit; elimination of verification of conservation value.

Patrons: Deeds and Houck; Delegate: Scott, E.T.

Eliminates DCR verification of conservation value of land donations resulting in \$1 million or more in tax credits if the grantee for the donation is the Virginia Outdoors Foundation.

01/30/08 Senate: **Continued to 2009** in Committee on Finance (16-0)

SB641 Land pres. tax credit; conveyance for public parks, recreational areas, or trails.

Patron: Ticer

Increases the land preservation tax credit to 60 % of fair market value of any land that is conveyed for the purpose of a public park, public recreational facility, or public trail access easement. The board of supervisors of the county or the council of the city in which such land is located would be required to pass a duly adopted resolution.

01/23/08 Senate: **Continued to 2009** in Finance (16-Y 0-N)

SB744 Land preservation tax credit; establishes process where properties are registered with Dept. of Tax.

Patron: Hanger

Establishes a process by which properties are to be registered with the Dept. of Taxation prior to any tax credit being allowed for a donation. Requires a written certification by a licensed reviewer certifying that the property, or interest therein, is in compliance with pre-registration standards established by the Department. Includes standards for the public benefit derived from the donation and standards for the use of the property by the donee. The Tax Dept. would be authorized to license qualified applicants to perform the review for certification; be allowed to levy and collect fees for licensure to cover the direct expenses for the program.

01/23/08 Senate: **Continued to 2009** in Finance (16-Y 0-N)

State Capital Process

HB1547 Creates the 21st Century Capital Improvement Program.

Patrons: Putney, Abbitt, Albo, BaCote, Bowling, Brink, Cox, Dance, Frederick, Hamilton, Hogan, Howell, A.T., Howell, W.J., Hugo, Hull, Ingram, Joannou, Jones, S.C., Landes, Lingamfelter, May, Morgan, O'Bannon, Phillips, Rust, Scott, J.M., Shannon, Sherwood, Tata and Ware, O.

Creates the 21st Century Capital Improvement Program for the orderly and systematic programming and financing of capital projects throughout the Commonwealth that will be

revised annually for the acquisition, development, enhancement, planning, or replacement of public facilities over a multiyear period. In addition, the bill provides an initial list of the Program's projects; a list of projects to be constructed by bonds issued by the Virginia College Building Authority and the Virginia Public Building Authority, and a list of projects whose planning costs will be appropriated in the Budget Bill.

01/18/08 House: Referred to Committee on Appropriations sub: Capital Outlay (Ingram)

Attachment #2

Highlights of 2007: Year-End Review

- DCR's involvement in the state's 400th anniversary events included a re-enactment of the English colonists' first steps in America at First Landing State Park. This was a signature event in the year-long commemoration that was attended by more than 8,000 people.
- Related to the 2007 commemoration was DCR's completion of "John Smith's Adventures on the Pamaunk Flu." This water trail along the York, Pamunkey and Mattaponi rivers interprets the interaction between John Smith and early settlers and the Native Virginia tribes in the area. It was produced as a complement to the existing, award-winning "John Smith's Adventures on the James River" water trail that DCR completed in October 2006.
- Virginia's State Parks achieved a milestone by serving over 7 million visitors and hosting special programs such as the "Blowin' the Dust Off" Tour by one of Virginia's finest musicians, Steve Bassett, along with Michele Nixon & Drive.
- DCR also hosted the National Association of State Park Directors conference in Williamsburg, where a groundbreaking agreement between state park directors and the National Park Service was reached that targeted initiatives to reconnect America's youth to the outdoors.
- The children in nature theme was also picked up in DCR's 2007 *Virginia Outdoors Plan (VOP)*, which is soon due out for release. This document is developed by DCR's planning and recreation resource planners to help all levels of the private and public sector meet the needs of outdoor recreation, land conservation and open space planning. The *VOP* provides guidance for the protection of lands through the Virginia Land Conservation Foundation, and serves as the official statewide comprehensive open space plan.
- Conserving Virginia's lands remains a top priority. As of October 31, 2007, Virginia had protected 171,000 acres towards Governor Kaine's goal of preserving an additional 400,000 acres of land by 2010.
- DCR staff discovered and corrected an error of about 120,000 acres in the year 2000's baseline of acres to be preserved in the Chesapeake Bay watershed. This resulted in a total 360,000 acres still needing to be protected to reach the Bay land conservation goal by 2010. (It did not affect progress on the Governor's goal.)

- DCR did its part this year by acquiring nearly 600 acres for state parks and natural areas in 2007. We also assumed new responsibilities associated with the land preservation tax credit program, administered \$6.2 million in grants to acquire lands or conservation easements through the Virginia Land Conservation Foundation, and helped sponsor the Governor's Land Conservation Forum in Southern Virginia.
- To provide the public with land conservation information, our Natural Heritage Program launched the Land Conservation Data Explorer, an online tool that allows the public to search and map information on all conserved lands. DCR also improved its Land Conservation website.
- Several advancements were made in water quality. The Department's Chesapeake Bay Local Assistance program staff have been working with the 84 Tidewater Virginia localities that fall under the Chesapeake Bay Preservation Act. All localities have met the first two stages of compliance and agency staff are now preparing to work with localities to review their local codes and address areas where those codes conflict with Bay Act requirements and the protection of water quality.
- DCR and the Virginia Soil and Water Conservation Board have also revised the process for approval of local erosion and sediment control programs. This change reflects the next step in improving our oversight of and assistance to local implementation of this important pollution prevention program.
- A number of advancements were also made on the agricultural front for healthier waters. In November, DCR signed an agreement with Virginia's poultry companies to reduce 30 percent the amount of phosphorus found in poultry litter by 2010. One way this will be achieved is through the addition of enzymes, such as phytase, to poultry feed that allows the birds to better absorb the phosphorus in their food.
- Even more significant was the availability of \$18 million – the most ever in any single year - in our agricultural cost-share incentive program that was used to help farmers put conservation practices on the ground. This year, with the cooperative partnership of the local soil and water conservation districts, we focused more of the funds on five priority practices.
- In our policy and regulatory areas, DCR continued significant efforts to revise regulations for the management of water quality and water quantity under our Stormwater Management Program. We are also close to finalizing amendments to Virginia's dam regulations to enhance the Dam Safety Program and to improve public safety.
- Beginning in December 2007, DCR revamped an existing fund and started our first solicitation of applications for loans to assist private owners and local governments with qualified dam rehabilitation, dam break inundation zone mapping, and floodplain mitigation and reduction projects.

- We undertook along with the Board of Conservation and Recreation a year-long review of the Commonwealth's Natural Area Preserve System. That rapidly expanding system is now up to 52 nature preserves totaling over 42,000 acres.
- The close of the year brought exciting news about the pending acquisition of the Crow's Nest property in Stafford County, which promises to be a jewel in the system.
- We opened major new state park facilities including cabins at Bear Creek Lake, Occoneechee, James River, Kiptopeke and Claytor Lake and meeting facilities at Bear Creek Lake and Claytor Lake and dedicated the newly renovated meeting hall at Westmoreland in honor of former delegate and secretary of natural resources Tayloe Murphy and his wife Helen.

Attachment #3

**Department of Conservation and Recreation
Report to the Virginia Soil & Water Conservation Board
February 1, 2008**

1. DCR/SWCD Operational Funding:

All 47 SWCDs were issued a grant agreement with DCR in late May, 2007 for Operational funding this fiscal year ('08). Each has returned a fully endorsed agreement to their CDC and all were issued an initial quarterly disbursement during late July and August. Second quarter disbursements were issued during November. Third quarter disbursements may be expected to be issued during February. Final disbursements will be issued in late April and early May (2008).

This fiscal year (FY08), operational funding for all districts totals \$4,313,210. The total amount reflects an increase about FY07 operational funding and provides a slight overall increase above the previous peak funding level experienced by districts in FY01 (\$4,301,000).

2. Employee Development

The conservation partners continue to work through the "JED" –Joint Employee Development system which relies on 4 regional teams (coordinated through a separate state level JED team) to address training and development of SWCD and other partner agency field staff. The state level JED team continues to meet no less than quarterly through face to face meetings or through conference calls. The group last met on January 16th, 2008 at the DOF state office in Charlottesville.

The group continues to focus considerable effort on delivery of 3 "core courses" when they are needed through regional or statewide delivery. The short course "Conservation Selling Skills" was delivered by professional trainer and consultant Chuck Hitzemann on November 7th and 8th at the Dorey Park facility east of Richmond. NRCS continues to pursue delivery of the EP&I (Effective Presentation and Instruction) short course with an initial focus of training course instructors that will deliver the course through the 4 regional JED teams. The third "core course" –Conservation Orientation for New Employees is delivered regionally when sufficient need exists to justify the sessions. Broader training needs continue to be addressed regionally through the 4 regional JED teams.

3. Orientation Training for Newly Elected SWCD Directors

From the November, 2007 elections, 57 of the 239 elected directors that took office January 1st, 2008 are new to their office (non-incumbents). A small team of conservation partner representatives has been meeting to plan several regional events. Arrangements for 3 programs are being finalized for delivery in mid-April. Program locations are Wytheville, Charlottesville and Richmond. An announcement flyer with program details will be issued within the next few weeks. Until these April sessions are delivered, DCR's CDCs continue to provide training for new directors in smaller group settings and share information that pertains to the Virginia Freedom of Information Act, district organizational structure, as well as personnel and fiscal information and director responsibilities.

4. SWCD Dams:

The SWCD dam owner work group comprised of representatives from the 12 SWCDs that own dams, DCR, NRCS and others, reached comfort with relaxing their meeting frequency from roughly every 2 months, to approximately every 3 months (a quarterly annual schedule) now that most of the major training needs of the group have been addressed. Of the roughly 4 meetings per year, one will address Emergency Action Plans, another will address routine annual maintenance of district dams and the remaining two meetings will address priority topics identified by the group. The group last met on January 24th in Charlottesville. A diverse group of SWCD staff, directors and agency partners

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participated in the session. Attendance numbered over 30. The focus of that meeting was annual dam maintenance. The group will meet again on April 24th and the primary topic will be emergency action planning.

5. Agricultural BMP Cost-Share Program:

The reallocation of unspent 2007 cost-share funds has been finalized with twenty-six Soil and Water Conservation Districts receiving some additional cost-share funds to be utilized in program year 2008. Conservation District Coordinators are currently discussing transferring contracted practice allocations between districts to best utilize these funds.

The Agricultural BMP Cost-Share Program Technical Advisory committee met December 13th at the Augusta County government center. The TAC continues to follow a plan of work that the group resolved this past fall to address areas of change or refinement with BMPs and program guidance. This advisory group will meet again in February (28th) and April (16th) for closure on recommendations of changes to the program that will begin July 1, 2008.

On January 31st the independent contractor that is examining the computer program used by SWCDs and DCR to capture data from agricultural BMPs delivered a final report to DCR outlining an assessment of the existing system and providing alternatives for needed improvements. DCR staff along with representatives from SWCDs and NRCS were present to hear CXI's presentation and participate in open discussion. A subset of the group will continue to meet and resolve next steps with implementation of changes to the current system.

6. Conservation Reserve Enhancement Program (CREP):

The federal Farm Bill is still awaiting conference committee action to work out differences between the Senate and House versions. In the meantime the Consolidated Appropriations Act, 2008, signed into law on 12/26/07, provides a continuation of CRP authority after December 31, 2007, until March 15, 2008. Local FSA offices are still accepting CRP-1 contracts until that time, it is hoped that the Farm Bill will be authorized by that time. If not, another extension of the 2002 Farm Bill may be considered. USDA and Virginia have signed an addendum to the Southern Rivers and Chesapeake Bay CREP Agreements that eliminate a specific ending date and will allow CREP enrollment in Virginia so long as the Conservation Reserve Program (CRP) is authorized. This step will assure continued CREP enrollment throughout Virginia.

Attachment # 4

**NRCS REPORT
VA Soil & Water Conservation Board Meeting
February 1, 2008
Association of Electric Cooperatives**

FARM BILL PROGRAMS

On December 26, President Bush signed the Omnibus Budget Bill for FY 2008. Included in this bill was authorization to continue operation of many of the Farm Bill programs contained in the 2002 Farm Bill until March 15, 2008.

Environmental Quality Incentives Program (EQIP) - Staff is currently completing work on obligating all of our funds for the Environmental Quality Incentive Program (EQIP). We will obligate 100% of our funds (approximately 10.8 million) prior to March 1, and will be developing a backlog of applications, spending additional funding under the new Farm Bill and FY 09 allocations.

Wildlife Habitat Incentives Program (WHIP) - We have also begun developing a backlog of applications in our Wildlife Habitat Incentive Program (WHIP). Our FY 08 allocation will be used to fund the existing backlog of applications carried over from last year and several new dam removal projects. Our final allocation for this program has still not been received from Washington.

Easement Programs - Easement programs have been extended to March 15. We are working with a number of entities holding existing cooperative agreements to modify these agreements and add new tracts prior to the March 15 deadline.

Conservation Security Program (CSP) - We anticipate an announcement within the next several weeks on the Conservation Security Program (CSP) for this year. If approved for funding, we will announce a sign-up period in the Great Wicomico-Piankatank watershed.

WATERSHED PLANNING AND SURVEYS

The 2008 Omnibus Bill zeroed out funding for the Watershed Surveys and Planning Program.

Virginia NRCS has received approval from the Chief of NRCS to complete the watershed plan for the North Fork Powell River Watershed in Lee County.

The final plan was completed in January for final review by our technical specialists in Arkansas. The plan is a land treatment project that will address water quality issues associated with abandoned mines and acid mine drainage. The project sponsors are

the Daniel Boone SWCD, Lee County, and the Virginia Department of Mines, Minerals, and Energy. If approved and funded, the project will provide 65% cost-share for the installation of needed measures in this watershed. The estimated construction cost is \$963,000.

DAM REHABILITATION

South River Site 26 (Inch Branch) in Augusta County – NRCS has awarded a contract for the rehabilitation of the Inch Branch Dam. The contract price was \$640,035. The auxiliary spillway will be widened by 50 feet, the riser will be replaced, a new access road built, and all disturbed areas will be seeded and mulched. The construction will begin in late February or March and will be completed in 2008.

South River Site 25 (Toms Branch) in Augusta County – NRCS has initiated the design process of Toms Branch dam rehabilitation. An outside consultant has been hired to complete the final design. The design should be completed by the end of FY-08. Construction is scheduled for FY-09.

Pohick Creek Site 4 (Royal Lake) in Fairfax County – A project agreement obligating the local and federal funds was signed in September. The NRCS share of this project is \$2,033,000. The final design has been completed. Fairfax County has begun the contracting process for the rehabilitation of Royal Lake and the bid should be awarded in March or April. A local contract will be administered by Fairfax County for the construction that will occur in FY-08.

A Phase III archaeological dig began in December 2007 on Pohick Creek Site 4. The age of the artifacts found at this prehistoric site date back to the Archaic Period which spanned 3-5,000 years ago. This is about the time of the Pharaohs and the Egyptian Empire. The artifacts will be excavated and placed on display in the Fairfax County Cultural Resources Museum. NRCS is utilizing the USDA Film Division to capture good footage of the ongoing work. This footage will be used in training employees on the proper ways to check and evaluate cultural resources as we do our work.

Pohick Creek Site 3 (Woodglen Lake) in Fairfax County - NRCS is working with Fairfax County and the Northern Virginia SWCD to develop a plan for rehabilitation of Woodglen Lake. The first draft is out for interagency and public review until March 17, 2008. The final plan should be completed by May 2008. The design will be initiated in FY-08.

Pohick Creek Site 2 (Lake Barton) in Fairfax County – NRCS is working with Fairfax County and the Northern Virginia SWCD to develop a plan for rehabilitation of Lake Barton. The first draft should be completed by the end of March 2008. The final plan should be completed by July 2008.

New FY-08 Dam Rehabilitation Plans – NRCS Planning Staff have begun planning on Pohick Creek Site 8 in Fairfax County - Huntsman Lake and Stony Creek Site 9 in Shenandoah County - Lake Laura.

New Dam Rehabilitation Applications Received – In FY-07, NRCS received 4 new requests for planning assistance under the Dam Rehabilitation Program. These sites need to be assessed and a risk analysis completed for each of them. However, according to agency direction, new dam assessments cannot be performed during a Continuing Resolution. The four sites are South River Watershed in Augusta County Site 7 - Lake Wilda; South River Watershed in Augusta County Site 19 - Waynesboro Nursery Lake; Upper North River Watershed in Augusta County Site 10 - Todd Lake; and Johns Creek in Craig County - Site 3.

WATERSHED OPERATIONS

Buena Vista Flood Control Project – A construction contract is ongoing to replace two undersized bridges in Buena Vista. The contract for \$860,165 will be paid 100% by PL-566 watershed funds. The contract should be completed the Spring of 2008. The next phase of the project is to purchase and demolish one house that is located in the floodplain. The house receives flood damages on a frequent basis. An easement will be placed on the property to restrict future development on that site.

Land Treatment Projects – To date in FY-08, NRCS staff has completed installation of conservation practices on 12 long-term contracts with landowners.

RAPID WATERSHED ASSESSMENT

South Fork Shenandoah River - NRCS has contracted with the Virginia Department of Conservation and Recreation to conduct a Rapid Watershed Assessment (RWA) on the South Fork of the Shenandoah River. The cooperative agreement which became effective July 1, 2006 provides nearly \$38,000 in Cooperative Conservation Partnership Initiative funds to collect and analyze data, and to develop a watershed profile. This watershed is a high priority for the state because of the heavy agricultural concentrations and severe fish kills that have occurred over the last few years. The assessment is scheduled to be completed in March 2008.

North Fork Shenandoah River – NRCS received funding to conduct a Rapid Watershed Assessment on the North Fork of the Shenandoah River in FY-07 and FY-08. This is a multi-state project between West Virginia and Virginia. A similar watershed assessment as the one ongoing on the South Fork Shenandoah River will be completed by NRCS staff by the end of June 2008.